

AMENDED IN SENATE JULY 16, 1996

AMENDED IN SENATE JUNE 18, 1996

AMENDED IN ASSEMBLY JANUARY 22, 1996

AMENDED IN ASSEMBLY JANUARY 3, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1832

Introduced by Assembly Member Speier

February 24, 1995

An act to amend Sections 3750, 3767, 7571, 7572, ~~7574~~, and 7644 of, to add Sections 3751.5, 7573, and 7577 to, and to repeal and add Sections ~~7575~~ 7574, 7575, and 7576 of, the Family Code, to amend Section 22825.14 of the Government Code, to amend Sections 1357, 1357.50, 1374.3, and 102425 of the Health and Safety Code, to amend Sections 10119, 10121.6, 10198.6, 10702.1, 10711, 10719.1, 10731.2, and 11516.1 of the Insurance Code, to amend Section 2803.5 of the Labor Code, to add Section 270i to the Penal Code, and to amend Sections 11350.3, 11350.4, ~~14124.93~~ 11476, 15200.1, 15200.2, 15200.3, 15200.7, 15200.8, 15200.85, 15200.9, and 15200.95 of, *to add Sections 14124.94 and 15200.91 to, and to repeal Section 14124.93 of*, the Welfare and Institutions Code, relating to family law, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1832, as amended, Speier. Family law: support: paternity.

(1) Existing law authorizes the court to require health care coverage payments in child support proceedings. Existing law requires the district attorney, the State Department of Health Services, or a party with custody of a child to enforce an outstanding support order that requires that health care coverage be provided to the child, and requires support obligors and their employers and health care insurers, as defined, to comply with these provisions, in the case of a child eligible for federal medicaid services.

This bill would require support obligors and their employers and health care insurers to comply with certain provisions relative to a support order requiring health care coverage to be provided to any child. These children would be included within the health care coverage provided by employers or other providers, as specified.

(2) Existing law specifies procedures for the establishment of paternity by voluntary declaration. Under these provisions, the child of a woman and a man executing a declaration of paternity is conclusively presumed to be the man's child. This presumption may be rebutted by way of blood or genetic tests within 3 years of the date of execution of the declaration, as provided. Existing law specifies the contents of the declaration, and requires each district attorney to pay \$10 to a hospital, clinic, or other place of live birth for each declaration filed.

This bill would revise and recast these provisions and would, among other things, authorize prenatal clinics to file voluntary declarations of paternity; make special provision for minors who sign a declaration; provide that a completed voluntary declaration of paternity that has been filed with the State Office of Vital Records and Statistics establishes the paternity of the child and has the same force and effect as a judgment for paternity issued by a court of competent jurisdiction; revise the contents of the declaration; provide a 60-day period in which a parent may rescind the voluntary declaration of paternity, except as provided; *authorize a court to set aside a voluntary declaration of paternity under certain conditions*; and make special provision for declarations signed on or before December 31, 1996. By requiring increased duties



of local officials, the bill would impose a state-mandated local program.

(3) Existing law requires a certificate of live birth to contain specified information, including the full name, birthplace, and date of birth of the father.

This bill would provide that if the parents are not married to each other, the father's name shall not be listed on the birth certificate unless the father and mother sign a voluntary declaration of paternity at the place of birth within 10 days of the birth, as specified.

(4) Existing law requires the district attorney, in specified actions filed by the district attorney, to provide the mother and the alleged father the opportunity to voluntarily acknowledge paternity by signing a voluntary declaration of paternity prior to a hearing or trial where the paternity of a minor child is at issue.

This bill would authorize the district attorney, for the purpose of meeting this requirement, to afford the defendant an opportunity to enter into a stipulation for judgment of paternity.

(5) Existing law generally provides that a court may order a parent to pay for the support of his or her child.

This bill would provide that a person who aids an obligor in the nonpayment of child support is guilty of a misdemeanor and would require that any fine imposed for a violation of this provision be paid in whole or in part to the obligee. By creating a new crime, the bill would impose a state-mandated local program.

(6) Existing law, operative July 1, 1997, appropriates federal incentive funds out of any money in the State Treasury not otherwise appropriated, from which the State Department of Social Services shall make payments to each county (a) on any support payments collected or distributed, or both, and (b) on any interstate support collections collected or distributed, or both, and provides for the payment to counties of state incentive funds.

This bill would change the operative date of these provisions to July 1, 1998.

(7) Existing law, operative July 1, 1997, appropriates out of any money in the General Fund not otherwise appropriated,

amounts from which the State Department of Social Services shall make federal incentive payments to each county on nonfederally funded foster care support payments collected or distributed, and provides for the payment to counties of state incentive funds.

This bill would change the operative date of this provision to July 1, 1998.

(8) Existing law, operative July 1, 1997, annually appropriates from the General Fund to the State Department of Social Services beginning in fiscal year 1997–98, a sum equal to 50% of the state's share of increased AFDC child support collections, as specified.

This bill would change the operative date of this provision to July 1, 1998.

(9) Existing law, operative until June 30, 1997, requires the State Department of Social Services to establish a performance-based incentive system which will provide federal and state incentive funds to counties based on standards of performance in the child support program, as provided. Existing law, operative until June 30, 1997, appropriates from the State Treasury sufficient funds, including federal incentives, from which the department shall pay (a) to each county a base rate of 10% on any support collections distributed, and (b) to certain counties a performance rate, and requires the department to pay to certain counties a specified compliance incentive rate.

This bill would extend the operative date of these provisions to June 30, 1998.

(10) Existing law, operative until June 30, 1997, provides for county and state responsibility for each counties' share of administrative expenditures for administering the child support program, and revises these provisions, operative July 1, 1997.

This bill would revise these operative dates to June 30, 1998, and July 1, 1998, respectively.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of

mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3750 of the Family Code is
2 amended to read:

3 3750. "Health insurance coverage" as used in this
4 article includes all of the following:

5 (a) Vision care and dental care coverage whether the
6 vision care or dental care coverage is part of existing
7 health insurance coverage or is issued as a separate policy
8 or plan.

9 (b) Provision for the delivery of health care services by
10 a fee for service, health maintenance organization,
11 preferred provider organization, or any other type of
12 health care delivery system under which medical services
13 could be provided to a dependent child of an absent
14 parent.

15 SEC. 2. Section 3751.5 is added to the Family Code, to
16 read:

17 ~~3751.5. (a) To the extent required by law, any~~
18 ~~support obligor, and his or her employer and health care~~
19 ~~insurer, shall comply with this section and with Section~~
20 ~~14124.93 of the Welfare and Institutions Code.~~

21 ~~(b) An~~
22 3751.5. (a) Notwithstanding any other provision of
23 law, an employer or insurer shall not deny enrollment of

1 a child under the health insurance coverage of a child's
2 parent on any of the following grounds:

3 (1) The child was born out of wedlock.

4 (2) The child is not claimed as a dependent on the
5 parent's federal income tax return.

6 (3) The child does not reside with the parent or in the
7 insurer's service area.

8 ~~(e) In~~

9 *(b) Notwithstanding any other provision of law, in any*
10 *case in which a parent is required by a court or*
11 *administrative order to provide health insurance*
12 *coverage for a child and the parent is eligible for family*
13 *health coverage through an employer doing business in*
14 *the state or an insurer, the employer or insurer shall do*
15 *all of the following, as applicable:*

16 (1) Permit the parent to enroll under health insurance
17 coverage any child who is otherwise eligible to enroll for
18 that coverage, without regard to any enrollment period
19 restrictions.

20 (2) If the parent is enrolled in health insurance
21 coverage but fails to apply to obtain coverage of the child,
22 enroll that child under the health coverage upon
23 presentation of the court order or request by the district
24 attorney, ~~the custodial party~~ *the other parent or person*
25 *having custody of the child*, or the Medi-Cal program.

26 (3) The employer or insurer shall not disenroll or
27 eliminate coverage of a child unless either of the
28 following applies:

29 (A) The employer has eliminated family health
30 insurance coverage for all of the employer's employees.

31 (B) The employer or insurer is provided with
32 satisfactory written evidence that either of the following
33 apply:

34 (i) The court order or administrative order is no
35 longer in effect *or is terminated pursuant to Section 3770*.

36 (ii) The child is or will be enrolled in comparable
37 health insurance coverage through another insurer that
38 will take effect not later than the effective date of the
39 child's disenrollment.

~~(4) Withhold from the employee's compensation the employee's share, if any, of the premiums for health coverage, not to exceed the maximum amount permitted to be withheld under Section 303(b) of the federal Consumer Credit Protection Act (15 U.S.C. Sec. 1673(b)), and pay that share of the premiums to the insurer, except as otherwise provided by federal statute or regulation for appropriate circumstances under which an employer may withhold less than the employee's share of the premiums.~~

~~(d) An insurer shall, in any case in which a child has health insurance coverage through the insurer of a noncustodial parent, do all of the following:~~

~~(1) Provide any information to the custodial party that may be necessary for the child to obtain benefits through the health coverage.~~

~~(2) Permit the custodial party, or provider, with the custodial party's approval, to submit claims for covered services without the approval of the noncustodial parent.~~

~~(3) Make payment on claims submitted in accordance with paragraph (2) directly to the custodial party, the provider, or the State Department of Health Services.~~

~~(e)~~

~~(c) For purposes of this section, "insurer" includes every health care service plan, self-insured welfare benefit plan, including those regulated pursuant to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001, et seq.), self-funded employer plan, disability insurer, nonprofit hospital service plan, labor union trust fund, employer, and any other similar plan, insurer, or entity offering a health coverage plan.~~

~~(f) For purposes of this section, "custodial party" or "party with custody of a child" includes, but is not limited to, a custodial parent, legal guardian, primary caretaker, or~~

~~(d) For purposes of this section, "person having custody of the child" is defined as a legal guardian, a caregiver who is authorized to enroll the child in school or to authorize medical care for the child pursuant to Section 6550, or a person with whom the child resides.~~

1 SEC. 3. *Section 3767 of the Family Code is amended*
2 *to read:*

3 3767. The employer or other person providing health
4 insurance shall do all of the following:

5 (a) Notify the applicant for the assignment order of
6 the commencement date of the coverage of the child.

7 (b) Provide evidence of coverage *and any information*
8 *necessary for the child to obtain benefits through the*
9 *coverage* to both parents or the person having custody of
10 the child and to the district attorney when requested by
11 the district attorney.

12 (c) Upon request by the parents or person having
13 custody of the child, provide all forms and other
14 documentation necessary for the purpose of submitting
15 claims to the insurance carrier which the employer or
16 other person providing health insurance usually provides
17 to insureds.

18 (d) *Permit the parent or the person having custody of*
19 *the child, or a provider with the approval of either the*
20 *parent or the person having custody of the child, to*
21 *submit claims for covered services on behalf of the child*
22 *without the approval of the covered parent.*

23 (e) *Make payments on claims submitted in*
24 *accordance with subdivision (d) directly to either parent*
25 *or the person having custody, to the provider, or to the*
26 *State Department of Health Services.*

27 SEC. 4. Section 7571 of the Family Code is amended
28 to read:

29 7571. (a) On and after January 1, 1995, upon the
30 event of a live birth, prior to an unmarried mother
31 leaving any hospital, clinic, or birthing center that is
32 licensed to provide obstetric services, the person
33 responsible for registering live births under Sections
34 102405 and 102415 of the Health and Safety Code shall
35 provide to the natural mother and shall attempt to
36 provide, at the place of birth, to the man identified by the
37 natural mother as the natural father, a ~~declaration for~~
38 ~~completion that meets the requirements of Section 7574~~
39 *voluntary declaration of paternity together with the*
40 *written materials described in Section 7572.* The person

1 responsible for registering the birth shall file the
2 declaration, if completed, with the birth certificate, and,
3 if requested, shall transmit a copy of the declaration to the
4 district attorney of the county where the birth occurred.
5 A copy of the declaration shall be made available to each
6 of the attesting parents.

7 (b) No health care provider shall be subject to any
8 civil, criminal, or administrative liability for any negligent
9 act or omission relative to the accuracy of the information
10 provided, or for filing the declaration with the
11 appropriate state or local agencies.

12 (c) The district attorney shall pay the sum of ten
13 dollars (\$10) to birthing hospitals and other entities that
14 provide prenatal or birthing services for each completed
15 declaration of paternity that is filed with the State Office
16 of Vital Records and Statistics, provided that the district
17 attorney and the hospital or other entity providing
18 prenatal or birthing services has entered into a written
19 agreement that specifies the terms and conditions for the
20 payment as required by federal law.

21 (d) If the declaration is not registered by the person
22 responsible for registering live births at the hospital,
23 clinic, or place of birth, it may be completed by the
24 attesting parents, notarized, and mailed to the State
25 Office of Vital Records and Statistics at any time after the
26 child's birth.

27 (e) Prenatal clinics may offer prospective parents the
28 opportunity to sign a voluntary declaration of paternity.
29 In order to be paid for their services as provided in
30 subdivision (c), prenatal clinics must ensure that the
31 form is witnessed and forwarded to the State Office of
32 Vital Records and Statistics.

33 (f) Declarations shall be made available without
34 charge at all district attorney offices, local vital statistics
35 offices, courts, and county welfare departments within
36 this state. Staff in these offices shall witness the signatures
37 of parents wishing to sign a voluntary declaration of
38 paternity and shall be responsible for forwarding the
39 signed declaration to the State Office of Vital Records and
40 Statistics.

(g) The State Department of Social Services and district attorneys shall publicize the availability of the declarations. The district attorney shall make the declaration, together with the ~~informational pamphlets~~ *written materials* described in subdivision (a) of Section 7572, available upon request to any parent. The district attorney shall also provide qualified staff to answer parents' questions regarding the declaration and the process of establishing paternity.

(h) Copies of the declaration filed with the State Office of Vital Records and Statistics shall be made available only to the parents, the child, the district attorney, ~~the county welfare department, the county counsel,~~ and the State Department of Social Services.

~~SEC. 4.~~

SEC. 5. Section 7572 of the Family Code is amended to read:

7572. (a) The State Department of Social Services, in consultation with the State Department of Health Services, the California Association of Hospitals and Health Systems, and other affected health provider organizations, shall work cooperatively to develop ~~informational pamphlets and related~~ *written materials* to assist providers and parents in complying with this chapter.

(b) The ~~informational pamphlets~~ *written materials for parents which shall be attached to the form specified in Section 7574* and provided to unmarried parents shall contain the following information:

(1) A signed voluntary declaration of paternity that is filed with the State Office of Vital Records and Statistics legally establishes paternity.

(2) The legal rights and obligations of both parents and the child that result from the establishment of paternity.

(3) An alleged father's constitutional rights to have the issue of paternity decided by a court; to notice of any hearing on the issue of paternity; to have an opportunity to present his case to the court, including his right to present and cross examine witnesses; to have an attorney represent him; and to have an attorney appointed to

1 represent him if he cannot afford one in a paternity action
2 filed by the district attorney.

3 (4) That by signing the voluntary declaration of
4 paternity, the father is voluntarily waiving his
5 constitutional rights.

6 (c) The State Department of Social Services shall, free
7 of charge, make available to hospitals, clinics, and other
8 places of birth any and all informational and training
9 materials for the program under this chapter, as well as
10 the paternity declaration form. The State Department of
11 Social Services shall make training available to every
12 hospital, clinic, and other place of birth no later than
13 October 31, 1994.

14 (d) The State Department of Social Services may
15 adopt regulations, including emergency regulations,
16 necessary to implement this chapter.

17 ~~SEC. 5.~~

18 *SEC. 6.* Section 7573 is added to the Family Code, to
19 read:

20 7573. Except as provided in Sections 7575, 7576, and
21 7577, a completed voluntary declaration of paternity, as
22 described in Section 7574, that has been filed with the
23 State Office of Vital Records and Statistics shall establish
24 the paternity of a child and shall have the same force and
25 effect as a judgment for paternity issued by a court of
26 competent jurisdiction. The voluntary declaration of
27 paternity shall be recognized as a basis for the
28 establishment of an order for child custody, visitation, or
29 child support.

30 ~~SEC. 6. Section 7574 of the Family Code is amended~~
31 ~~to read:~~

32 ~~7574. In order for paternity to be established pursuant~~
33 ~~to this chapter, the following must appear on the~~
34 ~~declaration:~~

35 ~~(a) The full name, place, and date of birth of the child.~~

36 ~~(b) The full name and current address of the attesting~~
37 ~~father of the child.~~

38 ~~(c) The full name and current address of the attesting~~
39 ~~mother of the child.~~

~~(d) The social security numbers of the attesting mother and father of the child, on a voluntary basis.~~

~~(e) A notice captioned “READ THIS BEFORE SIGNING” conspicuously placed on the declaration stating:~~

~~“(1) FATHER AND MOTHER: You do not have to sign this form. The choice is up to you. If any part of this form does not make sense to you, talk to the county Family Support Division or a lawyer before you sign it.~~

~~(2) FATHER AND MOTHER: Paternity means legal fatherhood. ONLY the natural father may sign this form. Once you have completed and signed this form and it is filed with the State Office of Vital Records and Statistics, the man who has signed the form will become the child’s legal father. As the child’s legal father, he will have the same rights as if he were married to the mother (such as the right to be consulted about adoption of the child). If you later separate, you will need to go to court to decide who pays child support and who has custody and visitation rights, similar to what happens when married parents divorce. Your child will have rights too (such as the right to receive Social Security benefits based on the father’s earnings).~~

~~(3) FATHER: Once you sign this form and say you are the child’s father, the law says you also have duties such as helping to support your child. If you and the mother separate, the court may order you to pay child support.~~

~~(4) FATHER: You have the right to a trial in court to decide the issue of paternity. You have the right to be notified in advance of any court action to decide paternity. If an action to establish paternity is filed against you in court, you have the right to be represented by an attorney. If the court action is filed by the district attorney, you may have the right to have an attorney appointed if you cannot afford to hire one. At the trial you have the right to tell your side of the story, to make witnesses attend, and to ask questions of other people that testify at the trial. By signing this declaration, you are, by your choice, giving up all of these rights.~~

1 ~~(5) FATHER AND MOTHER: You have 60 days from~~
2 ~~the date that you sign this form to change your mind,~~
3 ~~unless an action is filed in court prior to the end of the~~
4 ~~60-day period based upon this declaration to establish~~
5 ~~eustody, visitation rights, or child support. If there is a~~
6 ~~hearing in court before the end of the 60 days, your~~
7 ~~chance to change your mind will end after the hearing.~~
8 ~~If either of you have doubts that the man who signed the~~
9 ~~form is the father, you may request a form to rescind this~~
10 ~~voluntary declaration of paternity from the local family~~
11 ~~support office and the local vital statistics office. In order~~
12 ~~for your rescission to be valid, it must be filed with the~~
13 ~~State Office of Vital Records and Statistics within 60 days~~
14 ~~from the date the declaration of paternity was signed.~~

15 ~~(6) FATHER AND MOTHER: You do not have to~~
16 ~~write down your social security number. The number~~
17 ~~helps to find parents so that child support and other~~
18 ~~benefits your child may need may be collected. If you~~
19 ~~write down your social security number, it will be on any~~
20 ~~copies that are made of this form.”~~

21 ~~(7) FATHER AND MOTHER: If either or both of you~~
22 ~~are under the age of 18 years, a voluntary declaration of~~
23 ~~paternity will not establish paternity until 60 days after~~
24 ~~both of you are age 18 or emancipated. If you want to~~
25 ~~legally establish paternity before both of you are adults,~~
26 ~~you will have to go to court.~~

27 ~~(f) The signature of the father attesting under penalty~~
28 ~~of perjury under the laws of the State of California that~~
29 ~~the information provided is true and correct, that he has~~
30 ~~read and fully understands the rights he is waiving, that~~
31 ~~he is waiving those rights willingly, knowingly, and~~
32 ~~intelligently, that he understands the duties imposed on~~
33 ~~him as described in subdivision (e), and that he is~~
34 ~~executing this declaration to establish that he is the~~
35 ~~natural father of the child and understands, that by~~
36 ~~acknowledging paternity of the child, he accepts an~~
37 ~~obligation to provide child support under the laws of the~~
38 ~~State of California.~~

39 ~~(g) The signature of the natural mother attesting~~
40 ~~under penalty of perjury under the laws of the State of~~

~~California that the information provided is true and correct, that the man named is the natural father of her child, that she is executing this declaration to name the natural father of her child and that she fully understands that, by executing this declaration, she is establishing the paternal rights of the named father under the laws of the State of California, which may include the right to physical and legal custody of the child, the right to consent to adoption of the child, and visitation rights as determined by a court.~~

~~(h) The full name and signature of the person witnessing the signing of the paternity declaration by both the natural mother and the father.~~

~~(i) A statement that execution of this declaration authorizes the state to add the signator's name as the natural father of the child to the child's birth certificate.~~

~~SEC. 7.~~

~~SEC. 7. Section 7574 of the Family Code is repealed.~~

~~7574. In order for a conclusive presumption of paternity to be established pursuant to this chapter, the following must appear on the declaration:~~

~~(a) The full name, place, and date of birth of the child.~~

~~(b) The full name and current address of the attesting father of the child.~~

~~(c) The full name and current address of the attesting mother of the child.~~

~~(d) The social security numbers of the attesting mother and father of the child, on a voluntary basis.~~

~~(e) A notice captioned "READ THIS BEFORE SIGNING" conspicuously placed on the declaration stating:~~

~~"(1) FATHER AND MOTHER: You do not have to sign this form. The choice is up to you. If any part of this form does not make sense to you, talk to the county Family Support Division or a lawyer before you sign it.~~

~~(2) FATHER AND MOTHER: Paternity means legal fatherhood. ONLY the natural father may sign this form. If the man signs this form, the law of California will give him certain rights. He will have the same rights as if he were married to the mother. These rights include~~

1 ~~custody, the right to agree to adoption, and the right to~~
2 ~~visit your child. You may want to pursue an order for~~
3 ~~custody. Your child will have rights too (such as the right~~
4 ~~to inherit from the father).~~

5 ~~(3) FATHER: Once you sign this form and say you are~~
6 ~~the child's father, the law says you also have duties such~~
7 ~~as helping to support your child. If you and the mother~~
8 ~~separate, the court may order you to pay child support.~~

9 ~~(4) FATHER: You have the right to go to trial to~~
10 ~~decide paternity. At the trial you have the right to tell~~
11 ~~your side of the story, to ask questions, and make~~
12 ~~witnesses attend. By signing the form you understand~~
13 ~~that you are, by choice, giving up your right to a trial on~~
14 ~~the issue of paternity unless you challenge this paternity~~
15 ~~form.~~

16 ~~(5) FATHER AND MOTHER: This form can be~~
17 ~~challenged in court only by using blood or genetic test~~
18 ~~results that show that the man is not the natural father.~~
19 ~~This may be done if no more than three years have passed~~
20 ~~since the form was signed. This means three years from~~
21 ~~the date of the last signature.~~

22 ~~(6) FATHER AND MOTHER: If there is no court~~
23 ~~challenge to paternity during the three-year period, the~~
24 ~~man signing this form is the legal father of the child. This~~
25 ~~is true even if blood or genetic tests show he is not the~~
26 ~~father after the three years have passed.~~

27 ~~(7) FATHER AND MOTHER: You do not have to~~
28 ~~write down your social security number. The number~~
29 ~~helps to find parents so that child support and other~~
30 ~~benefits your child may need may be collected. If you~~
31 ~~write down your social security number, it will be on any~~
32 ~~copies that are made of this form."~~

33 ~~(f) The signature of the father attesting under penalty~~
34 ~~of perjury under the laws of the State of California that~~
35 ~~the information provided is true and correct, that he has~~
36 ~~read and fully understands the rights he is waiving, that~~
37 ~~he is waiving those rights willingly, knowingly, and~~
38 ~~intelligently, that he understands the duties imposed on~~
39 ~~him as described in subdivision (e), and that he is~~
40 ~~executing this declaration to establish that he is the~~

~~1 natural father of the child and understands, that by
2 acknowledging paternity of the child, he accepts an
3 obligation to provide child support under the laws of the
4 State of California.~~

~~5 (g) The signature of the natural mother attesting
6 under penalty of perjury under the laws of the State of
7 California that the information provided is true and
8 correct, that the man named is the natural father of her
9 child, that she is executing this declaration to name the
10 natural father of her child and that she fully understands
11 that, by executing this declaration, she is establishing the
12 paternal rights of the named father under the laws of the
13 State of California, which include the right to physical and
14 legal custody of the child, the right to consent to adoption
15 of the child, and visitation rights.~~

~~16 (h) The full name and signature of the person
17 witnessing the signing of the paternity declaration by
18 both the natural mother and the father.~~

~~19 (i) A statement that execution of this declaration
20 authorizes the state to add the signator's name as the
21 natural father of the child to the child's birth certificate.~~

SEC. 8. Section 7574 is added to the Family Code, to read:

7574. (a) The voluntary declaration of paternity shall be executed on a form developed by the State Department of Social Services in consultation with the State Department of Health Services, the California Family Support Council, and child support advocacy groups.

(b) The form described in subdivision (a) shall contain, at a minimum, the following:

(1) The name and the signature of the mother.

(2) The name and the signature of the father.

(3) The name of the child.

(4) The date of birth of the child.

(5) A statement by the mother that she has read and understands the written materials described in Section 7572, that the man who has signed the voluntary declaration of paternity is the only possible father, and

1 *that she consents to the establishment of paternity by*
2 *signing the voluntary declaration of paternity.*

3 (6) *A statement by the father that he has read and*
4 *understands the written materials described in Section*
5 *7572, that he understands that by signing the voluntary*
6 *declaration of paternity he is waiving his rights as*
7 *described in the written materials, that he is the biological*
8 *father of the child, and that he consents to the*
9 *establishment of paternity by signing the voluntary*
10 *declaration of paternity.*

11 (7) *The name and the signature of the person who*
12 *witnesses the signing of the declaration by the mother*
13 *and the father.*

14 SEC. 9. Section 7575 of the Family Code is repealed.

15 ~~SEC. 8.~~

16 SEC. 10. Section 7575 is added to the Family Code, to
17 read:

18 7575. (a) Either parent may rescind the voluntary
19 declaration of paternity by filing a rescission form with
20 the State Office of Vital Records and Statistics within 60
21 days of the date of execution of the declaration by the
22 attesting father or attesting mother, whichever signature
23 is later, unless a court order for custody, visitation, or child
24 support has been entered in an action in which the
25 signatory seeking to rescind was a party. The State
26 Department of Social Services shall develop a form to be
27 used by parents to rescind the declaration of paternity
28 and instruction on how to complete and file the rescission
29 with the State Office of Vital Records and Statistics. The
30 form and instructions shall be written in simple, easy to
31 understand language and shall be made available at the
32 local family support office and the local vital statistics
33 office.

34 (b) (1) *Notwithstanding Section 7573, if the court*
35 *finds that the conclusions of all of the experts based upon*
36 *the results of the blood tests performed pursuant to*
37 *Chapter 2 (commencing with Section 7550) are that the*
38 *man who signed the voluntary declaration is not the*
39 *father of the child, the court may set aside the voluntary*
40 *declaration of paternity.*

1 (2) *The notice of motion for blood tests under this*
2 *section may be filed not later than two years from the date*
3 *of the child's birth by either the mother or the man who*
4 *signed the voluntary declaration as the child's father in an*
5 *action to determine the existence or nonexistence of the*
6 *father and child relationship pursuant to Section 7630 or*
7 *in any action to establish an order for child custody,*
8 *visitation, or child support based upon the voluntary*
9 *declaration of paternity.*

10 (3) *The notice of motion for blood tests pursuant to*
11 *this section shall be supported by a declaration under oath*
12 *submitted by the moving party stating the factual basis*
13 *for putting the issue of paternity before the court.*

14 (c) (1) *Nothing in this chapter shall be construed to*
15 *prejudice or bar the rights of either parent to institute an*
16 *action to have the court set aside the voluntary*
17 *declaration of paternity based upon fraud, duress,*
18 *material mistake of fact, or based upon a finding that*
19 *there was not a valid waiver of rights. The parent seeking*
20 *to set aside the voluntary declaration of paternity shall*
21 *have the burden of proof. Any order for custody,*
22 *visitation, or child support shall remain in effect until the*
23 *court determines that the voluntary declaration of*
24 *paternity should be set aside, subject to the court's power*
25 *to modify the orders as otherwise provided by law.*

26 (2) ~~*If the voluntary declaration of paternity is set aside*~~
27 ~~*file an action or motion to set aside the voluntary*~~
28 ~~*declaration of paternity on any of the grounds described*~~
29 ~~*in, and within the time limits specified in, Section 473 of*~~
30 ~~*the Code of Civil Procedure and Chapter 10*~~
31 ~~*(commencing with Section 2120) of Part 1 of Division 6.*~~
32 ~~*If the action or motion to set aside the voluntary*~~
33 ~~*declaration of paternity is for fraud or perjury, the act*~~
34 ~~*must have induced the defrauded parent to sign the*~~
35 ~~*voluntary declaration of paternity. If the action or motion*~~
36 ~~*to set aside a judgment is required to be filed within a*~~
37 ~~*specified time period under Section 473 of the Code of*~~
38 ~~*Civil Procedure or Section 2122, the period within which*~~
39 ~~*the action or motion to set aside the voluntary declaration*~~
40 ~~*of paternity must be filed shall commence on the date*~~

1 *that the court makes a finding of paternity based upon the*
2 *voluntary declaration of paternity in an action for*
3 *custody, visitation, or child support.*

4 *(2) The parent seeking to set aside the voluntary*
5 *declaration of paternity shall have the burden of proof.*

6 *(3) Any order for custody, visitation, or child support*
7 *shall remain in effect until the court determines that the*
8 *voluntary declaration of paternity should be set aside,*
9 *subject to the court's power to modify the orders as*
10 *otherwise provided by law.*

11 *(4) Nothing in this section is intended to restrict a*
12 *court from acting as a court of equity.*

13 *(5) If the voluntary declaration of paternity is set aside*
14 *pursuant to paragraph (1), the court shall order that the*
15 *mother, child, and alleged father submit to blood or*
16 *genetic tests pursuant to Chapter 2 (commencing with*
17 *Section 7550). If the court finds that the conclusions of all*
18 *the experts, as disclosed by the evidence based upon the*
19 *blood or genetic tests, are that the person who executed*
20 *the voluntary declaration of paternity is not the father of*
21 *the child, the question of paternity shall be resolved*
22 *accordingly. If the person who executed the declaration*
23 *as the father of the child is not excluded as a possible*
24 *father, the question of paternity shall be resolved as*
25 *otherwise provided by law. If the person who executed*
26 *the declaration of paternity is ultimately determined to*
27 *be the father of the child, any child support that accrued*
28 *under an order based upon the voluntary declaration of*
29 *paternity shall remain due and owing.*

30 ~~(3)~~

31 *(6) The Judicial Council shall develop the forms and*
32 *procedures necessary to effectuate this subdivision.*

33 ~~SEC. 9.~~

34 *SEC. 11. Section 7576 of the Family Code is repealed.*

35 ~~SEC. 10.~~

36 *SEC. 12. Section 7576 is added to the Family Code to*
37 *read:*

38 *7576. The following provisions shall apply for*
39 *voluntary declarations signed on or before December 31,*
40 *1996.*

1 (a) Except as provided in subdivision (d), the child of
2 a woman and a man executing a declaration of paternity
3 under this chapter is conclusively presumed to be the
4 man's child. The presumption under this section has the
5 same force and effect as the presumption under Section
6 7540.

7 (b) A voluntary declaration of paternity shall be
8 recognized as the basis for the establishment of an order
9 for child custody or support.

10 (c) In any action to rebut the presumption created by
11 this section, a voluntary declaration of paternity shall be
12 admissible as evidence to determine paternity of the
13 child named in the voluntary declaration of paternity.

14 (d) The presumption established by this chapter may
15 be rebutted by any person by requesting blood or genetic
16 tests pursuant to Chapter 2 (commencing with Section
17 7550). The notice of motion for blood or genetic tests
18 pursuant to this section shall be supported by a
19 declaration under oath submitted by the moving party
20 stating the factual basis for placing the issue of paternity
21 before the court. The notice of motion for blood tests shall
22 be made within three years from the date of execution of
23 the declaration by the attesting father, or by the attesting
24 mother, whichever signature is later. The two-year
25 statute of limitations specified in subdivision (b) of
26 Section 7541 is inapplicable for purposes of this section.

27 (e) A presumption under this chapter shall override
28 all statutory presumptions of paternity except a
29 presumption arising under Section 7540 or 7555.

30 ~~SEC. 11.~~

31 *SEC. 13.* Section 7577 is added to the Family Code to
32 read:

33 7577. (a) Notwithstanding Section 7573, a voluntary
34 declaration of paternity that is signed by a minor parent
35 or minor parents shall not establish paternity until 60 days
36 after both parents have reached the age of 18 years or are
37 emancipated, whichever first occurs.

38 ~~(b) A minor parent may rescind the voluntary~~
39 ~~declaration of paternity any time prior to that parent~~

1 ~~reaching the age of 18 years or becoming emancipated,~~
2 ~~whichever first occurs.~~

3 (b) A parent who signs a voluntary declaration of
4 paternity when he or she is a minor may rescind the
5 voluntary declaration of paternity at any time up to 60
6 days after the parent reaches the age of 18 or becomes
7 emancipated whichever first occurs.

8 (c) A voluntary declaration of paternity signed by a
9 minor creates a rebuttable presumption of paternity until
10 the date that it establishes paternity as specified in
11 subdivision (a).

12 (d) A voluntary declaration of paternity signed by a
13 minor shall be admissible as evidence in any civil action
14 to establish paternity of the minor named in the voluntary
15 declaration.

16 (e) A voluntary declaration of paternity that is signed
17 by a minor shall not be admissible as evidence in a
18 criminal prosecution for violation of Section 261.5 of the
19 Penal Code.

20 ~~SEC. 12.~~

21 SEC. 14. Section 7644 of the Family Code is amended
22 to read:

23 7644. (a) Notwithstanding any other law, an action
24 for child custody and support and for other relief as
25 provided in Section 7637 may be filed based upon a
26 voluntary declaration of paternity as provided in Chapter
27 3 (commencing with Section 7570) of Part 2.

28 (b) A copy of the voluntary declaration of paternity
29 shall be filed with the complaint seeking the relief
30 specified in subdivision (a). A copy of the voluntary
31 declaration of paternity shall be served with the
32 complaint on the party against whom the child custody or
33 support order is sought.

34 (c) Except as provided in Section 7576, the voluntary
35 declaration of paternity shall be given the same force and
36 effect as a judgment of paternity entered by a court of
37 competent jurisdiction. The court shall make appropriate
38 orders as specified in Section 7637 based upon the
39 voluntary declaration of paternity unless evidence is
40 presented that the voluntary declaration of paternity has

1 been rescinded by the parties or set aside as provided in
2 Section 7575 of the Family Code.

3 (d) The Judicial Council shall develop the forms and
4 procedures necessary to implement this section.

5 ~~SEC. 13.~~

6 *SEC. 15.* Section 22825.14 of the Government Code is
7 amended to read:

8 22825.14. Any person or entity subject to the
9 requirements of this chapter shall comply with the
10 standards set forth in ~~Section 3751.5 of the Family Code~~
11 ~~and Section 14124.93 Chapter 7 (commencing with~~
12 ~~Section 3750) of Part 1 of Division 9 of the Family Code~~
13 ~~and Section 14124.94 of the Welfare and Institutions Code.~~

14 ~~SEC. 14.~~

15 *SEC. 16.* Section 1357 of the Health and Safety Code
16 is amended to read:

17 1357. As used in this article:

18 (a) “Dependent” means the spouse or child of an
19 eligible employee, subject to applicable terms of the
20 health care plan contract covering the employee, and
21 includes dependents of guaranteed association members
22 if the association elects to include dependents under its
23 health coverage at the same time it determines its
24 membership composition pursuant to subdivision (o).

25 (b) “Eligible employee” means either of the following:

26 (1) Any permanent employee who is actively engaged
27 on a full-time basis in the conduct of the business of the
28 small employer with a normal workweek of at least 30
29 hours, at the small employer’s regular places of business,
30 who has met any statutorily authorized applicable
31 waiting period requirements. The term includes sole
32 proprietors or partners of a partnership, if they are
33 actively engaged on a full-time basis in the small
34 employer’s business and included as employees under a
35 health care plan contract of a small employer, but does
36 not include employees who work on a part-time,
37 temporary, or substitute basis. It includes any eligible
38 employee as defined in this paragraph who obtains
39 coverage through a guaranteed association. Employees of
40 employers purchasing through a guaranteed association

1 shall be deemed to be eligible employees if they would
2 otherwise meet the definition except for the number of
3 persons employed by the employer.

4 (2) Any member of a guaranteed association as
5 defined in subdivision (o).

6 (c) “In force business” means an existing health
7 benefit plan contract issued by the plan to a small
8 employer.

9 (d) “Late enrollee” means an eligible employee or
10 dependent who has declined enrollment in a health
11 benefit plan offered by a small employer at the time of the
12 initial enrollment period provided under the terms of the
13 health benefit plan and who subsequently requests
14 enrollment in a health benefit plan of that small
15 employer, provided that the initial enrollment period
16 shall be a period of at least 30 days. It also means any
17 member of an association that is a guaranteed association
18 as well as any other person eligible to purchase through
19 the guaranteed association when that person has failed to
20 purchase coverage during the initial enrollment period
21 provided under the terms of the guaranteed association’s
22 plan contract and who subsequently requests enrollment
23 in the plan, provided that the initial enrollment period
24 shall be a period of at least 30 days. However, an eligible
25 employee, any other person eligible for coverage through
26 a guaranteed association pursuant to subdivision (o), or
27 dependent shall not be considered a late enrollee if: (1)
28 the individual meets all of the following: (A) he or she was
29 covered under another employer health benefit plan at
30 the time the individual was eligible to enroll; (B) he or
31 she certified at the time of the initial enrollment that
32 coverage under another employer health benefit plan
33 was the reason for declining enrollment, provided that, if
34 the individual was covered under another employer
35 health plan, the individual was given the opportunity to
36 make the certification required by this subdivision and
37 was notified that failure to do so could result in later
38 treatment as a late enrollee; (C) he or she has lost or will
39 lose coverage under another employer health benefit
40 plan as a result of termination of employment of the

1 individual or of a person through whom the individual
2 was covered as a dependent, change in employment
3 status of the individual or of a person through whom the
4 individual was covered as a dependent, termination of
5 the other plan's coverage, cessation of an employer's
6 contribution toward an employee or dependent's
7 coverage, death of the person through whom the
8 individual was covered as a dependent, or divorce; and
9 (D) he or she requests enrollment within 30 days after
10 termination of coverage or employer contribution
11 toward coverage provided under another employer
12 health benefit plan; (2) the employer offers multiple
13 health benefit plans and the employee elects a different
14 plan during an open enrollment period; (3) a court has
15 ordered that coverage be provided for a spouse or minor
16 child under a covered employee's health benefit plan
17 ~~and, except as provided in Section 1374.3, request for~~
18 ~~enrollment is made within 30 days after issuance of the~~
19 ~~court order~~; (4) (A) in the case of an eligible employee
20 as defined in paragraph (1) of subdivision (b), the plan
21 cannot produce a written statement from the employer
22 stating that the individual or the person through whom
23 the individual was eligible to be covered as a dependent,
24 prior to declining coverage, was provided with, and
25 signed, acknowledgment of an explicit written notice in
26 bold type specifying that failure to elect coverage during
27 the initial enrollment period permits the plan to impose,
28 at the time of the individual's later decision to elect
29 coverage, an exclusion from coverage for a period of 12
30 months as well as a six-month preexisting condition
31 exclusion, unless the individual meets the criteria
32 specified in paragraph (1), (2), or (3); (B) in the case of
33 an association member who did not purchase coverage
34 through a guaranteed association, the plan cannot
35 produce a written statement from the association stating
36 that the association sent a written notice in bold type to
37 all potentially eligible association members at their last
38 known address prior to the initial enrollment period
39 informing members that failure to elect coverage during
40 the initial enrollment period permits the plan to impose,

1 at the time of the member's later decision to elect
 2 coverage, an exclusion from coverage for a period of 12
 3 months as well as a six-month preexisting condition
 4 exclusion unless the member can demonstrate that he or
 5 she meets the requirements of subparagraphs (A), (C),
 6 and (D) of paragraph (1) or paragraph (2) or (3); or (C)
 7 in the case of an employer or person who is not a member
 8 of an association, was eligible to purchase coverage
 9 through a guaranteed association, and did not do so, and
 10 would not be eligible to purchase guaranteed coverage
 11 unless purchased through a guaranteed association, the
 12 employer or person can demonstrate that he or she meets
 13 the requirements of subparagraphs (A), (C), and (D) of
 14 paragraph (1), or paragraph (2) or (3), or that he or she
 15 recently had a change in status that would make him or
 16 her eligible and that application for enrollment was made
 17 within 30 days of the change.

18 (e) "New business" means a health care service plan
 19 contract issued to a small employer that is not the plan's
 20 in force business.

21 (f) "Preexisting condition provision" means a contract
 22 provision that excludes coverage for charges or expenses
 23 incurred during a specified period following the
 24 employee's effective date of coverage, as to a condition
 25 for which medical advice, diagnosis, care, or treatment
 26 was recommended or received during a specified period
 27 immediately preceding the effective date of coverage.

28 (g) "Qualifying prior coverage" means:

29 (1) Any individual or group policy, contract, or
 30 program that is written or administered by a disability
 31 insurer, nonprofit hospital service plan, health care
 32 service plan, fraternal benefits society, self-insured
 33 employer plan, or any other entity, in this state or
 34 elsewhere, and that arranges or provides medical,
 35 hospital, and surgical coverage not designed to
 36 supplement other private or governmental plans. The
 37 term includes continuation or conversion coverage but
 38 does not include accident only, credit, disability income,
 39 Medicare supplement, long-term care, dental, vision,
 40 coverage issued as a supplement to liability insurance,

1 insurance arising out of a workers' compensation or
2 similar law, automobile medical payment insurance, or
3 insurance under which benefits are payable with or
4 without regard to fault and that is statutorily required to
5 be contained in any liability insurance policy or
6 equivalent self-insurance.

7 (2) The federal Medicare program pursuant to Title
8 XVIII of the Social Security Act.

9 (3) The medicaid program pursuant to Title XIX of
10 the Social Security Act.

11 (4) Any other publicly sponsored program, provided
12 in this state or elsewhere, of medical, hospital, and
13 surgical care.

14 (h) "Rating period" means the period for which
15 premium rates established by a plan are in effect, and
16 shall be no less than six months.

17 (i) "Risk adjusted employee risk rate" means the rate
18 determined for an eligible employee of a small employer
19 in a particular risk category after applying the risk
20 adjustment factor.

21 (j) "Risk adjustment factor" means the percentage
22 adjustment to be applied equally to each standard
23 employee risk rate for a particular small employer, based
24 upon any expected deviations from standard cost of
25 services. This factor may not be more than 120 percent or
26 less than 80 percent until July 1, 1996. Effective July 1,
27 1996, this factor may not be more than 110 percent or less
28 than 90 percent.

29 (k) "Risk category" means the following
30 characteristics of an eligible employee: age, geographic
31 region, and family composition of the employee, plus the
32 health benefit plan selected by the small employer.

33 (1) No more than the following age categories may be
34 used in determining premium rates:

35 Under 30
36 30-39
37 40-49
38 50-54
39 55-59
40 60-64

1 65 and over

2 However, for the 65 and over age category, separate
3 premium rates may be specified depending upon
4 whether coverage under the plan contract will be
5 primary or secondary to benefits provided by the federal
6 Medicare program pursuant to Title XVIII of the federal
7 Social Security Act.

8 (2) Small employer health care service plans shall base
9 rates to small employers using no more than the following
10 family size categories:

11 (A) Single.

12 (B) Married couple.

13 (C) One adult and child or children.

14 (D) Married couple and child or children.

15 (3) (A) In determining rates for small employers, a
16 plan that operates statewide shall use no more than nine
17 geographic regions in the state, have no region smaller
18 than an area in which the first three digits of all its ZIP
19 Codes are in common within a county, and divide no
20 county into more than two regions. Plans shall be deemed
21 to be operating statewide if their coverage area includes
22 90 percent or more of the state's population. Geographic
23 regions established pursuant to this section shall, as a
24 group, cover the entire state, and the area encompassed
25 in a geographic region shall be separate and distinct from
26 areas encompassed in other geographic regions.
27 Geographic regions may be noncontiguous.

28 (B) In determining rates for small employers, a plan
29 that does not operate statewide shall use no more than the
30 number of geographic regions in the state than is
31 determined by the following formula: the population, as
32 determined in the last federal census, of all counties that
33 are included in their entirety in a plan's service are
34 divided by the total population of the state, as determined
35 in the last federal census, multiplied by nine. The
36 resulting number shall be rounded to the nearest whole
37 integer. No region may be smaller than an area in which
38 the first three digits of all its ZIP Codes are in common
39 within a county and no county may be divided into more
40 than two regions. The area encompassed in a geographic

1 region shall be separate and distinct from areas
2 encompassed in other geographic regions. Geographic
3 regions may be noncontiguous. No plan shall have less
4 than one geographic area.

5 Nothing in this section shall be construed to require a
6 plan to establish a new service area or to offer health
7 coverage on a statewide basis, outside of the plan's
8 existing service area.

9 (l) "Small employer" means either of the following:

10 (1) Any person, firm, proprietary or nonprofit
11 corporation, partnership, public agency, or association
12 that is actively engaged in business or service, that, on at
13 least 50 percent of its working days during the preceding
14 calendar quarter, employed at least three, but no more
15 than 50, eligible employees, the majority of whom were
16 employed within this state, that was not formed primarily
17 for purposes of buying health care service plan contracts,
18 and in which a bona fide employer-employee relationship
19 exists. However, for purposes of subdivisions (a), (b), and
20 (c) of Section 1357.03, the definition shall include
21 employers with at least five eligible employees until July
22 1, 1994, four eligible employees until July 1, 1995, and
23 three eligible employees thereafter. In determining the
24 number of eligible employees, companies that are
25 affiliated companies and that are eligible to file a
26 combined tax return for purposes of state taxation shall be
27 considered one employer. Subsequent to the issuance of
28 a health care service plan contract to a small employer
29 pursuant to this article, and for the purpose of
30 determining eligibility, the size of a small employer shall
31 be determined annually. Except as otherwise specifically
32 provided in this article, provisions of this article that apply
33 to a small employer shall continue to apply until the plan
34 contract anniversary following the date the employer no
35 longer meets the requirements of this definition. It
36 includes any small employer as defined in this paragraph
37 who purchases coverage through a guaranteed
38 association, and any employer purchasing coverage for
39 employees through a guaranteed association.

1 (2) Any guaranteed association, as defined in
2 subdivision (n), that purchases health coverage for
3 members of the association.

4 (m) "Standard employee risk rate" means the rate
5 applicable to an eligible employee in a particular risk
6 category in a small employer group.

7 (n) "Guaranteed association" means a nonprofit
8 organization comprised of a group of individuals or
9 employers who associate based solely on participation in
10 a specified profession or industry, accepting for
11 membership any individual or employer meeting its
12 membership criteria, and that (1) includes one or more
13 small employers as defined in paragraph (1) of
14 subdivision (l), (2) does not condition membership
15 directly or indirectly on the health or claims history of any
16 person, (3) uses membership dues solely for and in
17 consideration of the membership and membership
18 benefits, except that the amount of the dues shall not
19 depend on whether the member applies for or purchases
20 insurance offered to the association, (4) is organized and
21 maintained in good faith for purposes unrelated to
22 insurance, (5) has been in active existence on January 1,
23 1992, and for at least five years prior to that date, (6) has
24 included health insurance as a membership benefit for at
25 least five years prior to January 1, 1992, (7) has a
26 constitution and bylaws, or other analogous governing
27 documents that provide for election of the governing
28 board of the association by its members, (8) offers any
29 plan contract that is purchased to all individual members
30 and employer members in this state, (9) includes any
31 member choosing to enroll in the plan contracts offered
32 to the association provided that the member has agreed
33 to make the required premium payments, and (10)
34 covers at least 1,000 persons with the health care service
35 plan with which it contracts. The requirement of 1,000
36 persons may be met if component chapters of a statewide
37 association contracting separately with the same carrier
38 cover at least 1,000 persons in the aggregate.

39 This subdivision applies regardless of whether a
40 contract issued by a plan is with an association or a trust

1 formed for, or sponsored by, an association to administer
2 benefits for association members.

3 For purposes of this subdivision, an association formed
4 by a merger of two or more associations after January 1,
5 1992, and otherwise meeting the criteria of this
6 subdivision shall be deemed to have been in active
7 existence on January 1, 1992, if its predecessor
8 organizations had been in active existence on January 1,
9 1992, and for at least five years prior to that date and
10 otherwise met the criteria of this subdivision.

11 (o) "Members of a guaranteed association" means any
12 individual or employer meeting the association's
13 membership criteria if that person is a member of the
14 association and chooses to purchase health coverage
15 through the association. At the association's discretion, it
16 also may include employees of association members,
17 association staff, retired members, retired employees of
18 members, and surviving spouses and dependents of
19 deceased members. However, if an association chooses to
20 include these persons as members of the guaranteed
21 association, the association shall make that election in
22 advance of purchasing a plan contract. Health care
23 service plans may require an association to adhere to the
24 membership composition it selects for up to 12 months.

25 ~~SEC. 15.~~

26 *SEC. 17.* Section 1357.50 of the Health and Safety
27 Code is amended to read:

28 1357.50. For purposes of this article:

29 (a) "Health benefit plan" means any individual or
30 group, insurance policy or health care service plan
31 contract, that provides medical, hospital, and surgical
32 benefits. The term does not include accident only, credit,
33 disability income, coverage of Medicare services
34 pursuant to contracts with the United States government,
35 Medicare supplement, long-term care insurance, dental,
36 vision, coverage issued as a supplement to liability
37 insurance, insurance arising out of a workers'
38 compensation or similar law, automobile medical
39 payment insurance, or insurance under which benefits
40 are payable with or without regard to fault and that is

1 statutorily required to be contained in any liability
2 insurance policy or equivalent self-insurance.

3 (b) “Late enrollee” means an eligible employee or
4 dependent who has declined health coverage under a
5 health benefit plan offered through employment or
6 sponsored by an employer at the time of the initial
7 enrollment period provided under the terms of the
8 health benefit plan, and who subsequently requests
9 enrollment in a health benefit plan of that employer;
10 provided that the initial enrollment period shall be a
11 period of at least 30 days. However, an eligible employee
12 or dependent shall not be considered a late enrollee if any
13 of the following is applicable:

14 (1) The individual meets all of the following
15 requirements:

16 (A) The individual was covered under another
17 employer health benefit plan at the time the individual
18 was eligible to enroll.

19 (B) The individual certified, at the time of the initial
20 enrollment that coverage under another employer health
21 benefit plan was the reason for declining enrollment
22 provided that, if the individual was covered under
23 another employer health plan, the individual was given
24 the opportunity to make the certification required by this
25 subdivision and was notified that failure to do so could
26 result in later treatment as a late enrollee.

27 (C) The individual has lost or will lose coverage under
28 another employer health benefit plan as a result of
29 termination of employment of the individual or of a
30 person through whom the individual was covered as a
31 dependent, change in employment status of the
32 individual or of a person through whom the individual
33 was covered as a dependent, termination of the other
34 plan’s coverage, cessation of an employer’s contribution
35 toward an employee or dependent’s coverage, death of a
36 person through whom the individual was covered as a
37 dependent, or divorce.

38 (D) The individual requests enrollment within 30 days
39 after termination of coverage, or cessation of employer

1 contribution toward coverage provided under another
2 employer health benefit plan.

3 (2) The individual is employed by an employer that
4 offers multiple health benefit plans and the individual
5 elects a different plan during an open enrollment period.

6 (3) A court has ordered that coverage be provided for
7 a spouse or minor child under a covered employee's
8 health benefit plan. The health benefits plan shall enroll
9 a dependent child within 30 days after receipt of a court
10 order or request from the ~~nonecustodial parent, district~~
11 ~~attorney, custodial party, as described in subdivision (f)~~
12 ~~of Section 3751.5 of the Family Code and subdivision (j)~~
13 ~~of Section 14124.93 of the Welfare and Institutions Code,~~
14 ~~employer, or district attorney, either parent or the person~~
15 ~~having custody of the child as defined in Section 3751.5 of~~
16 ~~the Family Code, the employer, or the group~~
17 administrator. In the case of children who are eligible for
18 medicaid, the State Department of Health Services may
19 also make the request.

20 (4) The plan cannot produce a written statement from
21 the employer stating that, prior to declining coverage,
22 the individual or the person through whom the individual
23 was eligible to be covered as a dependent was provided
24 with, and signed acknowledgment of, explicit written
25 notice in bold type specifying that failure to elect
26 coverage during the initial enrollment period permits the
27 plan to impose, at the time of the individual's later
28 decision to elect coverage, an exclusion from coverage for
29 a period of 12 months as well as a six-month preexisting
30 condition exclusion, unless the individual meets the
31 criteria specified in paragraph (1), (2), or (3).

32 (c) "Preexisting condition provision" means a
33 contract provision that excludes coverage for charges or
34 expenses incurred during a specified period following the
35 enrollee's effective date of coverage, as to a condition for
36 which medical advice, diagnosis, care, or treatment was
37 recommended or received during a specified period
38 immediately preceding the effective date of coverage.

39 (d) "Qualifying prior coverage" means:

(1) Any individual or group policy, contract or program, that is written or administered by a disability insurance company, nonprofit hospital service plan, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, disability income, Medicare supplement, long-term care insurance, dental, vision, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(2) The federal Medicare program pursuant to Title XVIII of the Social Security Act.

(3) The medicaid program pursuant to Title XIX of the Social Security Act.

(4) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital and surgical care.

(e) "Waivered condition" means a contract provision that excludes coverage for charges or expenses incurred during a specified period of time for one or more specific, identified, medical conditions.

~~SEC. 16.~~

SEC. 18. Section 1374.3 of the Health and Safety Code is amended to read:

1374.3. Notwithstanding any other provision of this chapter or of a health care service plan contract, every health care service plan shall comply with the requirements of ~~Section 3751.5 of the Family Code and Section 14124.93 Chapter 7 (commencing with Section 3750) of Part 1 of Division 9 of the Family Code and Section 14124.94 of the Welfare and Institutions Code.~~

~~SEC. 17.~~

1 *SEC. 19.* Section 102425 of the Health and Safety Code
2 is amended to read:

3 102425. (a) The certificate of live birth for any live
4 birth occurring on or after January 1, 1980, shall contain
5 those items necessary to establish the fact of the birth and
6 shall contain only the following information:

7 (1) Full name and sex of child.

8 (2) Date of birth, including month, day, hour, and
9 year.

10 (3) Planned place of birth and place of birth.

11 (4) Full name of father, birthplace, and date of birth
12 of father including month, day, and year. If the parents
13 are not married to each other, the father's name shall not
14 be listed on the birth certificate unless the father and the
15 mother sign a voluntary declaration of paternity at the
16 hospital or other place of birth within 10 days of the child's
17 birth. The birth certificate may be amended to add the
18 father's name at a later date only if paternity for the child
19 has been ~~legally established~~ *established by a judgment of*
20 *a court of competent jurisdiction or by the filing of a*
21 *voluntary declaration of paternity.*

22 (5) Full birth name of mother, birthplace, and date of
23 birth of mother including month, day, and year.

24 (6) Multiple births and birth order of multiple births.

25 (7) Signature, and relationship to child, of a parent or
26 other informant, and date signed.

27 (8) Name, title, and mailing address of attending
28 physician and surgeon or principal attendant, signature,
29 and certification of live birth by attending physician and
30 surgeon or principal attendant or certifier, date signed,
31 and name and title of certifier if other than attending
32 physician and surgeon or principal attendant.

33 (9) Date accepted for registration and signature of
34 local registrar.

35 (10) A state birth certificate number and local
36 registration district and number.

37 (11) A blank space for entry of date of death with a
38 caption reading "Date of Death."

39 (b) In addition to the items listed in subdivision (a),
40 the certificate of live birth shall contain the following

1 medical and social information, provided that the
2 information is kept confidential pursuant to Sections
3 102430 and 102447 and is clearly labeled “Confidential
4 Information for Public Health Use Only”:

5 (1) Birth weight.

6 (2) Pregnancy history.

7 (3) Race and ethnicity of mother and father.

8 (4) Residence address of mother.

9 (5) A blank space for entry of census tract for mother’s
10 address.

11 (6) Month prenatal care began and number of
12 prenatal visits.

13 (7) Date of last normal menses.

14 (8) Description of complications of pregnancy and
15 concurrent illnesses, congenital malformation, and any
16 complication of labor and delivery, including surgery;
17 provided that this information is essential medical
18 information and appears in total on the face of the
19 certificate.

20 (9) Mother’s and father’s occupations and kind of
21 business or industry.

22 (10) Education level of mother and father.

23 (11) Principal source of pay for prenatal care, which
24 shall include all of the following: Medi-Cal, health
25 maintenance organization or prepaid health plan, private
26 insurance companies, medically indigent, self-pay, other
27 sources which shall include, Medicare, workers’
28 compensation, Title V, other government or
29 nongovernment programs, no charge, and other
30 categories as determined by the State Department of
31 Health Services.

32 This paragraph shall become inoperative on January 1,
33 1999, or on the implementation date of the decennial
34 birth certificate revision due to occur on or about January
35 1, 1999, whichever occurs first.

36 (12) Expected principal source of pay for delivery,
37 which shall include all of the following: Medi-Cal, health
38 maintenance organization or prepaid health plan, private
39 insurance companies, medically indigent, self-pay, other
40 sources which shall include, Medicare, workers’

1 compensation, Title V, other government or
2 nongovernment programs, no charge, and other
3 categories as determined by the State Department of
4 Health Services.

5 This paragraph shall become inoperative on January 1,
6 1999, or on the implementation date of the decennial
7 birth certificate revision due to occur on or about January
8 1, 1999, whichever occurs first.

9 (13) An indication of whether or not the child's parent
10 desires the automatic issuance of a Social Security
11 number to the child.

12 (14) On and after January 1, 1995, the social security
13 numbers of the mother and father, unless subdivision (b)
14 of Section 102150 applies.

15 (c) Item 8, specified in subdivision (b), shall be
16 completed by the attending physician and surgeon or the
17 attending physician's and surgeon's designated
18 representative. The names and addresses of children
19 born with congenital malformations, who require
20 followup treatment, as determined by the child's
21 physician and surgeon, shall be furnished by the physician
22 and surgeon to the local health officer, if permission is
23 granted by either parent of the child.

24 (d) The parent shall only be asked to sign the form
25 after both the public portion and the confidential medical
26 and social information items have been entered upon the
27 certificate of live birth.

28 (e) The State Registrar shall instruct all local registrars
29 to collect the information specified in this section with
30 respect to certificates of live birth. The information shall
31 be transcribed on the certificate of live birth in use at the
32 time and shall be limited to the information specified in
33 this section.

34 Information relating to concurrent illnesses,
35 complications of pregnancy and delivery, and congenital
36 malformations shall be completed by the physician and
37 surgeon, or physician's and surgeon's designee, inserting
38 in the space provided on the confidential portion of the
39 certificate the appropriate number or numbers listed on
40 the VS-10A supplemental worksheet. The VS-10A

1 supplemental form shall be used as a worksheet only and
2 shall not in any manner be linked with the identity of the
3 child or the mother, nor submitted with the certificate to
4 the State Registrar. All information transferred from the
5 worksheet to the certificate shall be fully explained to the
6 parent or other informant prior to the signing of the
7 certificate. No questions relating to drug or alcohol abuse
8 may be asked.

9 (f) If the implementation date of the decennial birth
10 certificate revision occurs prior to January 1, 1999, within
11 30 days of this implementation date the State
12 Department of Health Services shall file a letter with the
13 Secretary of the Senate and with the Chief Clerk of the
14 Assembly, so certifying.

15 ~~SEC. 18.~~

16 *SEC. 20.* Section 10119 of the Insurance Code is
17 amended to read:

18 10119. On and after the operative date of this section:

19 (a) No policy of disability insurance which, in addition
20 to covering the insured, also covers members of the
21 insured's immediate family, may be issued or amended in
22 this state if it contains any disclaimer, waiver, or other
23 limitation of coverage relative to the accident and
24 sickness coverage or insurability of newborn infants of an
25 insured from and after the moment of birth or of any
26 minor child placed with an insured for adoption from and
27 after the moment the child is placed in the physical
28 custody of the insured for adoption.

29 (b) Each such policy of disability insurance shall
30 contain a provision granting immediate accident and
31 sickness coverage to each newborn infant of, and each
32 minor child placed for adoption with, any insured as
33 required by subdivision (a).

34 (c) A policy of disability insurance, self-insured care
35 coverage, employee welfare benefit plan, or nonprofit
36 hospital service plan, shall comply with the standards set
37 forth in ~~Section 3751.5 of the Family Code and Section~~
38 ~~14124.93 Chapter 7 (commencing with Section 3750) of~~
39 ~~Part 1 of Division 9 of the Family Code and Section~~
40 ~~14124.94 of the Welfare and Institutions Code.~~

1 ~~SEC. 19.~~

2 *SEC. 21.* Section 10121.6 of the Insurance Code is
3 amended to read:

4 10121.6. (a) No policy of group disability insurance or
5 self-insured employee welfare benefit plan which
6 provides hospital, medical, or surgical expense benefits
7 for employees, insureds, or policyholders and their
8 dependents shall exclude a dependent child from
9 eligibility or benefits solely because the dependent child
10 does not reside with the employee, insured, or
11 policyholder.

12 (b) Each policy of group disability insurance or
13 self-insured employee welfare benefit plan which
14 provides hospital, medical, or surgical expense benefits
15 for employees, insureds, or policyholders and their
16 dependents shall enroll, upon application by the
17 employer or group administrator, a dependent child of
18 the noncustodial parent when that parent is the
19 employee, insured, or policyholder at any time ~~the~~
20 ~~noncustodial parent, custodial party, or either the parent~~
21 ~~or the person having custody of the child as defined in~~
22 ~~Section 3751.5 of the Family Code, or the district attorney~~
23 makes an application for enrollment to the employer or
24 group administrator when a court order for medical
25 support exists. ~~Except as provided in subdivision (c) of~~
26 ~~Section 10119, the application to the employer or group~~
27 ~~administrator shall be made within 90 days of the issuance~~
28 ~~of the court order.~~ In the case of children who are eligible
29 for medicaid, the State Department of Health Services
30 may also make that application.

31 ~~SEC. 20.~~

32 *SEC. 22.* Section 10198.6 of the Insurance Code is
33 amended to read:

34 10198.6. For purposes of this article:

35 (a) "Health benefit plan" means any group or
36 individual policy or contract that provides medical,
37 hospital, and surgical benefits. The term does not include
38 accident only, credit, disability income, coverage of
39 Medicare services pursuant to contracts with the United
40 States government, Medicare supplement, long-term

1 care insurance, dental, vision, coverage issued as a
2 supplement to liability insurance, insurance arising out of
3 a workers' compensation or similar law, automobile
4 medical payment insurance, or insurance under which
5 benefits are payable with or without regard to fault and
6 that is statutorily required to be contained in any liability
7 insurance policy or equivalent self-insurance.

8 (b) "Late enrollee" means an eligible employee or
9 dependent who has declined health coverage under a
10 health benefit plan offered through employment or
11 sponsored by an employer at the time of the initial
12 enrollment period provided under the terms of the
13 health benefit plan, and who subsequently requests
14 enrollment in a health benefit plan of that employer;
15 provided that the initial enrollment period shall be a
16 period of at least 30 days. However, an eligible employee
17 or dependent shall not be considered a late enrollee if any
18 of the following is applicable:

19 (1) The individual meets all of the following
20 requirements:

21 (A) The individual was covered under another
22 employer health benefit plan at the time the individual
23 was eligible to enroll.

24 (B) The individual certified, at the time of the initial
25 enrollment that coverage under another employer health
26 benefit plan was the reason for declining enrollment
27 provided that, if the individual was covered under
28 another employer health plan, the individual was given
29 the opportunity to make the certification required by this
30 subdivision and was notified that failure to do so could
31 result in later treatment as a late enrollee.

32 (C) The individual has lost or will lose coverage under
33 another employer health benefit plan as a result of
34 termination of employment of the individual or of a
35 person through whom the individual was covered as a
36 dependent, change in employment status of the
37 individual or of a person through whom the individual
38 was covered as a dependent, termination of the other
39 plan's coverage, cessation of an employer's contribution
40 toward an employee or dependent's coverage, death of a

1 person through whom the individual was covered as a
2 dependent, or divorce.

3 (D) The individual requests enrollment within 30 days
4 after termination of coverage, or cessation of employer
5 contribution toward coverage provided under another
6 employer health benefit plan.

7 (2) The individual is employed by an employer that
8 offers multiple health benefit plans and the individual
9 elects a different plan during an open enrollment period.

10 (3) A court has ordered that coverage be provided for
11 a spouse or minor child under a covered employee's
12 health benefit plan ~~and, except as provided in subdivision~~
13 ~~(e) of Section 10119, request for enrollment is made~~
14 ~~within 30 days after issuance of the court order.~~

15 (4) The carrier cannot produce a written statement
16 from the employer stating that, prior to declining
17 coverage, the individual or the person through whom the
18 individual was eligible to be covered as a dependent was
19 provided with, and signed acknowledgment of, explicit
20 written notice in bold type specifying that failure to elect
21 coverage during the initial enrollment period permits the
22 carrier to impose, at the time of the individual's later
23 decision to elect coverage, an exclusion from coverage for
24 a period of twelve months as well as a six month
25 preexisting condition exclusion, unless the individual
26 meets the criteria specified in paragraph (1), (2), or (3).

27 (c) "Preexisting condition provision" means a policy
28 provision that excludes coverage for charges or expenses
29 incurred during a specified period following the insured's
30 effective date of coverage, as to a condition for which
31 medical advice, diagnosis, care, or treatment was
32 recommended or received during a specified period
33 immediately preceding the effective date of coverage.

34 (d) "Qualifying prior coverage" means:

35 (1) Any individual or group policy, contract or
36 program, that is written or administered by a disability
37 insurance company, nonprofit hospital service plan,
38 health care service plan, fraternal benefits society,
39 self-insured employer plan, or any other entity, in this
40 state or elsewhere, and that arranges or provides medical,

1 hospital, and surgical coverage not designed to
2 supplement other private or governmental plans. The
3 term includes continuation or conversion coverage but
4 does not include accident only, credit, disability income,
5 Medicare supplement, long-term care insurance, dental,
6 vision, coverage issued as a supplement to liability
7 insurance, insurance arising out of a workers'
8 compensation or similar law, automobile medical
9 payment insurance, or insurance under which benefits
10 are payable with or without regard to fault and that is
11 statutorily required to be contained in any liability
12 insurance policy or equivalent self-insurance.

13 (2) The federal Medicare program pursuant to Title
14 XVIII of the Social Security Act.

15 (3) The medicaid program pursuant to Title XIX of
16 the Social Security Act.

17 (4) Any other publicly sponsored program, provided
18 in this state or elsewhere, of medical, hospital and surgical
19 care.

20 ~~SEC. 21.~~

21 SEC. 23. Section 10702.1 of the Insurance Code is
22 amended to read:

23 10702.1. Any person or entity subject to the
24 requirements of this chapter shall comply with the
25 standards set forth in ~~Section 3751.5 of the Family Code~~
26 ~~and Section 14124.93 Chapter 7 (commencing with~~
27 ~~Section 3750) of Part 1 of Division 9 of the Family Code~~
28 ~~and Section 14124.94 of the Welfare and Institutions Code.~~

29 ~~SEC. 22.~~

30 SEC. 24. Section 10711 of the Insurance Code is
31 amended to read:

32 10711. No carrier shall be required by the provisions
33 of this chapter:

34 (a) To offer coverage to, or accept applications from,
35 a small employer as defined in paragraph (1) of
36 subdivision (w) of Section 10700, where the small
37 employer is not physically located in a carrier's approved
38 service areas.

39 (b) To offer coverage to or accept applications from a
40 small employer as defined in paragraph (2) of subdivision

1 (w) of Section 10700 where the small employer is seeking
2 coverage for eligible employees who do not work or
3 reside in a carrier's approved service areas.

4 (c) To include in a health benefits plan an otherwise
5 eligible employee or dependent, when the eligible
6 employee or dependent does not work or reside within a
7 carrier's approved service area, except as provided in
8 Section 10702.1.

9 (d) To offer coverage to, or accept applications from,
10 a small employer for a benefits plan design within an area
11 if the commissioner has found that the carrier will not
12 have the capacity within the area in its network of
13 providers to deliver service adequately to the eligible
14 employees and dependents of that employee because of
15 its obligations to existing group contractholders and
16 enrollees and that the action is not unreasonable or
17 clearly inconsistent with the intent of this chapter.

18 A carrier that cannot offer coverage to small employers
19 in a specific service area because it is lacking sufficient
20 capacity may not offer coverage in the applicable area to
21 new employer groups with more than 50 eligible
22 employees until the carrier notifies the commissioner
23 that it has regained capacity to deliver services to small
24 employers, and certifies to the commissioner that from
25 the date of the notice it will enroll all small groups
26 requesting coverage from the carrier until the carrier has
27 met the requirements of subdivision (h) of Section 10705.

28 (e) To offer coverage to a small employer, or an
29 eligible employee as defined in paragraph (2) of
30 subdivision (g) of Section 10700, who within 12 months of
31 application for coverage terminated from a health
32 benefit plan offered by the carrier.

33 ~~SEC. 23.~~

34 *SEC. 25.* Section 10719.1 of the Insurance Code is
35 amended to read:

36 10719.1. Any person or entity subject to the
37 requirements of this chapter shall comply with the
38 standards set forth in ~~Section 3751.5 of the Family Code~~
39 ~~and Section 14124.93 Chapter 7 (commencing with~~

1 *Section 3750) of Part 1 of Division 9 of the Family Code*
2 *and Section 14124.94 of the Welfare and Institutions Code.*

3 ~~SEC. 24.~~

4 *SEC. 26.* Section 10731.2 of the Insurance Code is
5 amended to read:

6 10731.2. Any person or entity subject to the
7 requirements of this chapter shall comply with the
8 standards set forth in ~~Section 3751.5 of the Family Code~~
9 ~~and Section 14124.93 Chapter 7 (commencing with~~
10 *Section 3750) of Part 1 of Division 9 of the Family Code*
11 *and Section 14124.94 of the Welfare and Institutions Code.*

12 ~~SEC. 25.~~

13 *SEC. 27.* Section 11516.1 of the Insurance Code is
14 amended to read:

15 11516.1. (a) No group nonprofit hospital service plan
16 which provides hospital, medical, or surgical expense
17 benefits for employees, members, or policyholders and
18 their dependents shall exclude a dependent child from
19 eligibility or benefits solely because the dependent child
20 does not reside with the employee, member, or
21 policyholder.

22 (b) A group nonprofit hospital service plan which
23 provides hospital, medical, or surgical expense benefits
24 for employees, members, or policyholders and their
25 dependents shall enroll, upon application by the
26 employer or group administrator, a dependent child of
27 the noncustodial parent when that parent is the
28 employee, member, or policyholder of the plan at any
29 time the ~~noncustodial parent, custodial party either~~
30 *parent or the person having custody of the child as*
31 *defined in Section 3751.5 of the Family Code*, or district
32 attorney makes an application for enrollment to the
33 employer or group administrator when a court order for
34 medical support exists. ~~Except as provided in subdivision~~
35 ~~(e) of Section 10119, the application to the employer or~~
36 ~~group administrator shall be made within 90 days of the~~
37 ~~issuance of the court order.~~ In the case of children who
38 are eligible for medicaid, the State Department of Health
39 Services may also make that application.

40 ~~SEC. 26.~~

1 SEC. 28. Section 2803.5 of the Labor Code is amended
2 to read:

3 2803.5. Any employer who offers health care
4 coverage, including employers and insurers, shall comply
5 with the standards set forth in ~~Section 3751.5 of the~~
6 ~~Family Code and Section 14124.93~~ Chapter 7
7 (commencing with Section 3750) of Part 1 of Division 9
8 of the Family Code and Section 14124.94 of the Welfare
9 and Institutions Code.

10 ~~SEC. 27.~~

11 SEC. 29. Section 270i is added to the Penal Code, to
12 read:

13 270i. (a) A person who, knowing that an obligor has
14 a duty under an administrative or judicial order for
15 payment of child support, does either of the acts specified
16 in paragraphs (1) or (2) is guilty of a misdemeanor,
17 punishable by imprisonment in a county jail not
18 exceeding one year, by a fine equal to the amount that is
19 delinquent under the child support order, but not
20 exceeding two thousand five hundred dollars (\$2,500), or
21 by both that imprisonment and fine.

22 (1) The person withholds information about the
23 residence or employment of the obligor when a child
24 support enforcement agency requests that information.
25 The request shall include the following statement in
26 boldfaced type: The above named person owes a duty of
27 child support pursuant to a judicial or administrative
28 order. Section 270i of the Penal Code makes it a
29 misdemeanor for any person to knowingly withhold
30 information from a child support enforcement agency
31 about the residence or employment of an individual who
32 owes a duty of child support.

33 (2) (A) The person participates in a commercial,
34 business, employment, or other financial arrangement
35 with the obligor, knowing at the time the arrangement is
36 made that it will allow the obligor to avoid paying all or
37 some of the child support when it is due or to avoid having
38 a lien placed on assets for the payment of delinquent child
39 support.

1 (B) It is a defense to prosecution under this paragraph
2 that the defendant did not intend to assist the obligor in
3 the nonpayment of child support or the obligor did not
4 intend to avoid paying child support.

5 (b) This section does not prohibit an attorney who
6 represents a child support obligor in proceedings to
7 contest or modify a child support order from entering
8 into an arrangement with the obligor for the purpose of
9 payment of that attorney's fees.

10 (c) This section shall not apply to title or escrow
11 companies, any state or federally regulated or licensed
12 lenders or arrangers of credit or their subsidiaries,
13 affiliates, or employees when providing title or escrow
14 services, or any banking or lending services making or
15 arranging loans, or enforcing or dealing with the security
16 on any lien.

17 (d) In any case in which there is a conviction under
18 this section and a fine is imposed, the court shall direct the
19 fine to be paid in whole or in part to the obligee.

20 ~~SEC. 28.~~

21 *SEC. 30.* Section 11350.3 of the Welfare and
22 Institutions Code is amended to read:

23 11350.3. In any action filed by the district attorney
24 pursuant to Section 11350 or 11350.1, the district attorney
25 shall provide the mother and the alleged father the
26 opportunity to voluntarily acknowledge paternity by
27 signing a paternity declaration as described in Section
28 7574 of the Family Code prior to a hearing or trial where
29 the paternity of a minor child is at issue. The opportunity
30 to voluntarily acknowledge paternity may be provided
31 either before or after an action pursuant to Section 11350
32 or 11350.1 is filed and served upon the alleged father. For
33 the purpose of meeting the requirements of this action,
34 the district attorney may afford the defendant an
35 opportunity to enter into a stipulation for judgment of
36 paternity after an action *for paternity* has been filed in
37 lieu of the voluntary declaration of paternity.

38 ~~SEC. 29.~~

39 *SEC. 31.* Section 11350.4 of the Welfare and
40 Institutions Code is amended to read:

1 11350.4. (a) Notwithstanding any other law, an
2 action for child support may be brought by the district
3 attorney on behalf of a minor child or caretaker parent
4 based upon a voluntary declaration of paternity as
5 provided in Chapter 3 (commencing with Section 7570)
6 of Part 2 of Division 12 of the Family Code.

7 (b) A copy of the voluntary declaration of paternity
8 shall be filed with the complaint for child support filed by
9 the district attorney, and a copy shall be served with the
10 complaint on the party against whom the child support
11 order is sought.

12 (c) Except as provided in Sections 7576 and 7577 of the
13 Family Code, the voluntary declaration of paternity shall
14 be given the same force and effect as a judgment for
15 paternity entered by a court of competent jurisdiction.
16 The court shall make appropriate orders for support of
17 the minor child based upon the voluntary declaration of
18 paternity unless evidence is presented that the voluntary
19 declaration of paternity has been rescinded by the parties
20 or set aside by a court as provided in Section 7575 of the
21 Family Code.

22 (d) The Judicial Council shall develop the forms and
23 procedures necessary to implement this section.

24 ~~SEC. 30. Section 14124.93 of the Welfare and~~
25 ~~Institutions Code, as added by Section 24 of Chapter 147~~
26 ~~of the Statutes of 1994, is amended to read:~~

27 ~~14124.93. (a) The district attorney or party with~~
28 ~~custody of a child shall act to enforce an outstanding~~
29 ~~support order that requires that health care coverage be~~
30 ~~provided to the child.~~

31 ~~(b) To the extent required by law, any support obligor,~~
32 ~~and his or her employer and health care insurer, shall~~
33 ~~comply with Chapter 7 (commencing with Section 3750)~~
34 ~~of Part 1 of Division 9 of the Family Code and the~~
35 ~~standards set forth in this section.~~

36 ~~(c) An employer or insurer shall not deny enrollment~~
37 ~~of a child under the health coverage of a child's parent on~~
38 ~~any of the following grounds:~~

39 ~~(1) The child was born out of wedlock.~~

1 ~~(2) The child is not claimed as a dependent on the~~
2 ~~parent's federal income tax return.~~

3 ~~(3) The child does not reside with the parent or in the~~
4 ~~insurer's service area.~~

5 ~~(d) In any case in which a parent is required by a court~~
6 ~~or administrative order to provide health coverage for a~~
7 ~~child and the parent is eligible for family health coverage~~
8 ~~through an insurer, the insurer shall do all of the~~
9 ~~following, as applicable:~~

10 ~~(1) Permit the parent to enroll under health coverage~~
11 ~~any child who is otherwise eligible to enroll for that~~
12 ~~coverage, without regard to any enrollment period~~
13 ~~restrictions.~~

14 ~~(2) If the parent is enrolled in health coverage but fails~~
15 ~~to apply to obtain coverage of the child, enroll that child~~
16 ~~under the health coverage upon presentation of the court~~
17 ~~order by the district attorney or upon presentation of the~~
18 ~~court order or request by the custodial party or the~~
19 ~~Medi-Cal program.~~

20 ~~(3) The insurer shall not disenroll, or eliminate~~
21 ~~coverage of, a child to which this subdivision applies,~~
22 ~~unless the insurer is provided with satisfactory evidence~~
23 ~~that either of the following apply:~~

24 ~~(A) The court order or administrative order is no~~
25 ~~longer in effect.~~

26 ~~(B) The child is or will be enrolled in comparable~~
27 ~~health coverage through another insurer that will take~~
28 ~~effect not later than the effective date of the child's~~
29 ~~disenrollment.~~

30 ~~(e) If a parent is required by a court or administrative~~
31 ~~order to provide health coverage and the parent is~~
32 ~~eligible for health coverage through an employer doing~~
33 ~~business in the state, the employer shall do all of the~~
34 ~~following:~~

35 ~~(1) Permit the parent to enroll under health coverage~~
36 ~~any child who is otherwise eligible for coverage, without~~
37 ~~regard to any enrollment period restrictions.~~

38 ~~(2) If the parent is enrolled in health coverage but fails~~
39 ~~to apply to obtain coverage of the child, enroll the child~~
40 ~~under the health coverage upon presentation of a court~~

~~1 order by the district attorney or upon presentation of a
2 court order or request by the custodial party or the
3 Medi-Cal program.~~

~~4 (3) The employer shall not disenroll or eliminate
5 coverage of any child to which this section applies unless
6 the employer is provided satisfactory written evidence,
7 where applicable, that any of the following apply:~~

~~8 (A) The court order or administrative order is no
9 longer in effect.~~

~~10 (B) The child will be enrolled in comparable health
11 coverage through another insurer that will take effect not
12 later than the effective date of the child's disenrollment.~~

~~13 (C) The employer has eliminated family health
14 coverage for all of the employer's employees.~~

~~15 (4) Withhold from the employee's compensation the
16 employee's share, if any, of the premiums for health
17 coverage, not to exceed the maximum amount permitted
18 to be withheld under Section 303(b) of the federal
19 Consumer Credit Protection Act (15 U.S.C. Sec.
20 1673(b)), and pay that share of the premiums to the
21 insurer, except as otherwise provided by federal statute
22 or regulation for appropriate circumstances under which
23 an employer may withhold less than the employee's share
24 of the premiums.~~

~~25 (f) The rights of a Medi-Cal beneficiary to health care
26 benefits from an insurer have been assigned to the
27 department, an insurer shall not impose any requirement
28 on the department that is different from any requirement
29 applicable to an agent or any other assignee of the
30 covered beneficiary.~~

~~31 (g) An insurer shall, in any case in which a child has
32 health coverage through the insurer of a noneustodial
33 parent, do all of the following:~~

~~34 (1) Provide any information to the custodial party that
35 may be necessary for the child to obtain benefits through
36 the health coverage.~~

~~37 (2) Permit the custodial party, or provider, with the
38 custodial party's approval, to submit claims for covered
39 services without the approval of the noneustodial parent.~~

1 ~~(3) Make payment on claims submitted in accordance~~
2 ~~with paragraph (2) directly to the custodial party, the~~
3 ~~provider, or the department.~~

4 ~~(h) The department, in the administration of the~~
5 ~~Medi-Cal program, may garnish the wages, salary, or~~
6 ~~other employment income of, and withhold amounts~~
7 ~~from state tax refunds from, any person to whom both of~~
8 ~~the following apply:~~

9 ~~(1) The person is required by a court or administrative~~
10 ~~order to provide coverage of the costs of health services~~
11 ~~to a child who is eligible for medical assistance under the~~
12 ~~Medi-Cal program.~~

13 ~~(2) The person has received payment from a third~~
14 ~~party for the costs of the health services for the child, but~~
15 ~~he or she has not used the payments to reimburse, as~~
16 ~~appropriate, either the custodial party or the provider of~~
17 ~~the health services, to the extent necessary to reimburse~~
18 ~~the department for expenditures for those costs under the~~
19 ~~Medi-Cal program. All claims for current or past-due~~
20 ~~child support shall take priority over claims made by the~~
21 ~~department for the costs of Medi-Cal services.~~

22 ~~(i) For purposes of this section, “insurer” includes~~
23 ~~every health care service plan, self-insured welfare~~
24 ~~benefit plan, including those regulated pursuant to the~~
25 ~~Employee Retirement Income Security Act of 1974 (29~~
26 ~~U.S.C. Sec. 1001, et seq.), self-funded employer plan,~~
27 ~~disability insurer, nonprofit hospital service plan, labor~~
28 ~~union trust fund, employer, and any other similar plan,~~
29 ~~insurer, or entity offering a health coverage plan.~~

30 ~~(j) For purposes of this section, “custodial party” or~~
31 ~~“party with custody of a child” includes, but is not limited~~
32 ~~to, a custodial parent, legal guardian, primary caretaker,~~
33 ~~or person with whom the child resides.~~

34 ~~SEC. 31.~~

35 *SEC. 32. Section 11476 of the Welfare and Institutions*
36 *Code is amended to read:*

37 11476. It shall be the duty of the county department
38 to refer all cases where a parent is absent from the home,
39 or where the parents are unmarried and parentage has
40 not been ~~determined~~ *established by the completion and*

1 *filing of a voluntary declaration of paternity pursuant to*
2 *Section 7573 of the Family Code or a court of competent*
3 *jurisdiction, to the district attorney immediately at the*
4 *time the application for public assistance, including*
5 *Medi-Cal benefits, or certificate of eligibility, is signed by*
6 *the applicant or recipient. If an applicant is found to be*
7 *ineligible, the applicant shall be notified in writing that*
8 *the referral of the case to the district attorney may be*
9 *terminated at the applicant's request. The county*
10 *department shall cooperate with the district attorney and*
11 *shall make available to him or her all pertinent*
12 *information as provided in Section 11478.*

13 Upon referral from the county department, the district
14 attorney shall investigate the question of nonsupport or
15 paternity and shall take all steps necessary to obtain child
16 support for the needy child, enforce spousal support as
17 part of the state plan under Section 11475.2, and
18 determine paternity in the case of a child born out of
19 wedlock. Upon the advice of the county department that
20 a child is being considered for adoption, the district
21 attorney shall delay the investigation and other actions
22 with respect to the case until advised that the adoption is
23 no longer under consideration. The granting of public
24 assistance or Medi-Cal benefits to an applicant shall not
25 be delayed or contingent upon investigation by the
26 district attorney.

27 In cases where Medi-Cal benefits are the only assistance
28 provided, the district attorney shall provide child and
29 spousal support services unless the recipient of the
30 services notifies the district attorney that only services
31 related to securing Medi-Cal benefits are requested.

32 Where a court order has been obtained, any
33 contractual agreement for support between the district
34 attorney or the county department and the noncustodial
35 parent shall be deemed null and void to the extent that
36 it is not consistent with the court order.

37 Whenever a family which has been receiving public
38 assistance, including Medi-Cal, ceases to receive
39 assistance, including Medi-Cal, the district attorney shall,
40 to the extent required by federal regulations, continue to

1 enforce support payments from the noncustodial parent
2 until such time as the individual on whose behalf the
3 enforcement efforts are made sends written notice to the
4 district attorney requesting that enforcement services be
5 discontinued.

6 The district attorney shall, where appropriate, utilize
7 reciprocal arrangements adopted with other states in
8 securing support from an absent parent. In individual
9 cases where utilization of reciprocal arrangements has
10 proven ineffective, the district attorney may forward to
11 the Attorney General a request to utilize federal courts
12 in order to obtain or enforce orders for child or spousal
13 support. If reasonable efforts to collect amounts assigned
14 pursuant to Section 11477 have failed, the district
15 attorney may request that the case be forwarded to the
16 Treasury Department for collection in accordance with
17 federal regulations. The Attorney General, where
18 appropriate, shall forward these requests to the Secretary
19 of Health and Human Services, or a designated
20 representative.

21 *SEC. 33. Section 14124.93 of the Welfare and*
22 *Institutions Code, as added by Section 24 of Chapter 147*
23 *of the Statutes of 1994, is repealed.*

24 ~~14124.93. (a) The district attorney or party with~~
25 ~~custody of a child shall act to enforce an outstanding~~
26 ~~support order that requires that health care coverage be~~
27 ~~provided to the child.~~

28 ~~(b) To the extent required by federal law, any support~~
29 ~~obligor, and his or her employer and health care insurer,~~
30 ~~shall comply with the standards set forth in this section.~~

31 ~~(c) An employer or insurer shall not deny enrollment~~
32 ~~of a child under the health coverage of a child's parent on~~
33 ~~any of the following grounds:~~

34 ~~(1) The child was born out of wedlock.~~

35 ~~(2) The child is not claimed as a dependent on the~~
36 ~~parent's federal income tax return.~~

37 ~~(3) The child does not reside with the parent or in the~~
38 ~~insurer's service area.~~

39 ~~(d) In any case in which a parent is required by a court~~
40 ~~or administrative order to provide health coverage for a~~

~~child and the parent is eligible for family health coverage through an insurer, the insurer shall do all of the following, as applicable:~~

~~(1) Permit the parent to enroll under health coverage any child who is otherwise eligible to enroll for that coverage, without regard to any enrollment period restrictions.~~

~~(2) If the parent is enrolled in health coverage but fails to apply to obtain coverage of the child, enroll that child under the health coverage upon presentation of the court order by the district attorney or upon presentation of the court order or request by the custodial party or the Medi-Cal program.~~

~~(3) The insurer shall not disenroll, or eliminate coverage of, a child to which this subdivision applies, unless the insurer is provided with satisfactory evidence that either of the following apply:~~

~~(A) The court order or administrative order is no longer in effect.~~

~~(B) The child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of the child's disenrollment.~~

~~(e) If a parent is required by a court or administrative order to provide health coverage and the parent is eligible for health coverage through an employer doing business in the state, the employer shall do all of the following:~~

~~(1) Permit the parent to enroll under health coverage any child who is otherwise eligible for coverage, without regard to any enrollment period restrictions.~~

~~(2) If the parent is enrolled in health coverage but fails to apply to obtain coverage of the child, enroll the child under the health coverage upon presentation of a court order by the district attorney or upon presentation of a court order or request by the custodial party or the Medi-Cal program.~~

~~(3) The employer shall not disenroll or eliminate coverage of any child to which this section applies unless~~

1 ~~the employer is provided satisfactory written evidence,~~
2 ~~where applicable, that any of the following apply:~~

3 ~~(A) The court order or administrative order is no~~
4 ~~longer in effect.~~

5 ~~(B) The child will be enrolled in comparable health~~
6 ~~coverage through another insurer that will take effect not~~
7 ~~later than the effective date of the child's disenrollment.~~

8 ~~(C) The employer has eliminated family health~~
9 ~~coverage for all of the employer's employees.~~

10 ~~(4) Withhold from the employee's compensation the~~
11 ~~employee's share, if any, of the premiums for health~~
12 ~~coverage, not to exceed the maximum amount permitted~~
13 ~~to be withheld under Section 303(b) of the federal~~
14 ~~Consumer Credit Protection Act (15 U.S.C. Sec.~~
15 ~~1673(b)), and pay that share of the premiums to the~~
16 ~~insurer, except as otherwise provided by federal statute~~
17 ~~or regulation for appropriate circumstances under which~~
18 ~~an employer may withhold less than the employee's share~~
19 ~~of the premiums.~~

20 ~~(f) The rights of a Medi-Cal beneficiary to health care~~
21 ~~benefits from an insurer have been assigned to the~~
22 ~~department, an insurer shall not impose any requirement~~
23 ~~on the department that is different from any requirement~~
24 ~~applicable to an agent or any other assignee of the~~
25 ~~covered beneficiary.~~

26 ~~(g) An insurer shall, in any case in which a child has~~
27 ~~health coverage through the insurer of a nonecustodial~~
28 ~~parent, do all of the following:~~

29 ~~(1) Provide any information to the custodial party that~~
30 ~~may be necessary for the child to obtain benefits through~~
31 ~~the health coverage.~~

32 ~~(2) Permit the custodial party, or provider, with the~~
33 ~~custodial party's approval, to submit claims for covered~~
34 ~~services without the approval of the nonecustodial parent.~~

35 ~~(3) Make payment on claims submitted in accordance~~
36 ~~with paragraph (2) directly to the custodial party, the~~
37 ~~provider, or the department.~~

38 ~~(h) The department, in the administration of the~~
39 ~~Medi-Cal program, may garnish the wages, salary, or~~
40 ~~other employment income of, and withhold amounts~~

~~from state tax refunds from, any person to whom both of the following apply:~~

~~(1) The person is required by a court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under the Medi-Cal program.~~

~~(2) The person has received payment from a third party for the costs of the health services for the child, but he or she has not used the payments to reimburse, as appropriate, either the custodial party or the provider of the health services, to the extent necessary to reimburse the department for expenditures for those costs under the Medi-Cal program. All claims for current or past due child support shall take priority over claims made by the department for the costs of Medi-Cal services.~~

~~(i) For purposes of this section, “insurer” includes every health care service plan, self-insured welfare benefit plan, including those regulated pursuant to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001, et seq.), self-funded employer plan, disability insurer, nonprofit hospital service plan, labor union trust fund, employer, and any other similar plan, insurer, or entity offering a health coverage plan.~~

~~(j) For purposes of this section, “custodial party” or “party with custody of a child” includes, but is not limited to, a custodial parent, legal guardian, primary caretaker, or person with whom the child resides.~~

SEC. 34. Section 14124.94 is added to the Welfare and Institutions Code, to read:

14124.94. (a) When the rights of a Medi-Cal beneficiary to health care benefits from an insurer have been assigned to the department, an insurer shall not impose any requirement on the department that is different from any requirement applicable to an agent or any assignee of the covered beneficiary.

(b) The department, in the administration of the Medi-Cal program, may garnish the wages, salary, or other employment income of, and withhold amounts from state tax refunds from, any person to whom both of the following apply:

1 *(1) The person is required by a court or administrative*
2 *order to provide coverage of the costs of health services*
3 *to a child who is eligible for medical assistance under the*
4 *Medi-Cal program.*

5 *(2) The person has received payment from a third*
6 *party for the costs of the health services for the child, but*
7 *he or she has not used the payments to reimburse, as*
8 *appropriate, either the other parent or the person having*
9 *custody of the child, or the provider of the health services,*
10 *to the extent necessary to reimburse the department for*
11 *expenditures for those costs under the Medi-Cal program.*
12 *All claims for current or past due child support shall take*
13 *priority over claims made by the department for the costs*
14 *of Medi-Cal services.*

15 *(c) For purposes of this section, "insurer" includes*
16 *every health care service plan, self-insured welfare*
17 *benefit plan, including those regulated pursuant to the*
18 *Employee Retirement Income Security Act of 1974 (29*
19 *U.S.C. Sec. 1001, et. seq.), self-funded employer plan,*
20 *disability insurer, nonprofit hospital service plan, labor*
21 *union trust fund, employer, and any other similar plan,*
22 *insurer, or entity offering a health coverage plan.*

23 SEC. 35. Section 15200.1 of the Welfare and
24 Institutions Code is amended to read:

25 15200.1. (a) There is hereby appropriated out of any
26 money in the State Treasury not otherwise appropriated,
27 from which the department shall make payments to each
28 county on any support payments collected or distributed,
29 or both, federal incentive funds on the amount received
30 which qualify therefor. In addition, the department shall
31 pay to each county on any support collections distributed,
32 regardless of the date of collection, a state incentive of 7.5
33 percent. This amount shall be paid on collections used to
34 reduce or repay aid which is paid pursuant to this chapter,
35 on collections paid to an aided family in the form of
36 income which is not included in determining eligibility
37 for assistance pursuant to federal law (also referred to as
38 "disregards"), on collections paid to an aided family in the
39 form of income which is included in determining

1 eligibility (also referred to as “pass-ons” and “excess”),
2 and for aid which is entitled to federal matching funds.

3 (b) In addition, a county may qualify for an additional
4 state incentive payment under Section 15200.7.

5 (c) Where more than one county has participated in
6 the enforcement or collection, the federal and state
7 AFDC incentive payments authorized by this section
8 shall be made to the collecting county except that the
9 federal non-AFDC incentive, and any non-AFDC
10 incentive paid under Section 15200.95, shall be paid to the
11 appropriate jurisdiction as determined by the State
12 Department of Social Services.

13 (d) Where more than one state has participated in the
14 enforcement or collection, the incentive payment, if any,
15 shall be made in accordance with Section 15200.2.

16 (e) This section shall become operative on July 1, 1998.

17 ~~SEC. 32.~~

18 *SEC. 36.* Section 15200.2 of the Welfare and
19 Institutions Code is amended to read:

20 15200.2. (a) There is hereby appropriated out of any
21 money in the State Treasury not otherwise appropriated,
22 from which the department shall make payments to
23 California counties, on any interstate support collections
24 collected or distributed, or both, federal incentive funds
25 on the amount received which qualify therefor. In
26 addition, the department shall pay to each county on any
27 support collections distributed, regardless of the date of
28 collection, a state incentive of 7.5 percent. This amount
29 shall be paid on collections used to reduce or repay aid
30 which is paid pursuant to this chapter, on collections paid
31 to an aided family in the form of income which is not
32 included in determining eligibility for assistance
33 pursuant to federal law (also referred to as “disregards”),
34 on collections paid to an aided family in the form of
35 income which is included in determining eligibility (also
36 referred to as “pass-ons” and “excess”), and for aid which
37 is entitled to federal matching funds. In addition, a county
38 may qualify for an additional state incentive payment
39 under Section 15200.7.

1 (b) The department shall, by regulation, pay the
2 incentive payment to the county distributing the support
3 payment from another state.

4 (c) Where a county makes a collection for another
5 state, the department shall make the federal incentive
6 payment to the county making the collection. No state
7 incentive shall be paid on collections made by a county on
8 behalf of another state.

9 (d) This section shall become operative on July 1, 1998.

10 ~~SEC. 33.~~

11 *SEC. 37.* Section 15200.3 of the Welfare and
12 Institutions Code is amended to read:

13 15200.3. (a) There is hereby appropriated out of any
14 money in the General Fund not otherwise appropriated,
15 amounts from which the department shall make federal
16 incentive payments to each county on nonfederally
17 funded foster care support payments collected or
18 distributed.

19 (b) The department shall pay to counties, in addition
20 to the federal incentive for nonfederally funded foster
21 care, a state incentive on collections used to repay the
22 state's share of aid. The increased state incentive shall be
23 paid to the extent and as specified in subdivision (c).

24 (c) The state incentive provided in subdivision (b) for
25 nonfederal foster care cases shall only apply to those
26 statewide collections distributed in a fiscal year in excess
27 of the 1982–83 budget projection. From the excess, 7.5
28 percent, or the increased incentive, of collections for
29 nonfederal foster care cases shall be set aside for payment
30 of these incentives. At the end of the fiscal year payment
31 to each county of the incentive money shall be in
32 proportion to the percentage of the total nonfederal cases
33 support collection for the state which each county has
34 distributed. The percentage incentive specified in
35 subdivision (a) shall not exceed the total incentive
36 provided by the state for federal foster care cases at any
37 time but shall automatically be adjusted for any
38 reductions. Any remaining funds shall be credited to
39 offset expenditures for AFDC-FC.

(d) The Legislature finds and declares that the state incentive provided pursuant to this section is sufficient to reimburse counties for court and all other costs incurred through enforcement of parental liability in nonfederally funded foster care cases.

(e) This section shall become operative on July 1, 1998.

~~SEC. 34.~~

SEC. 38. Section 15200.7 of the Welfare and Institutions Code is amended to read:

15200.7. (a) In addition to funds appropriated pursuant to Sections 15200.1 and 15200.2, there is hereby annually appropriated from the General Fund to the State Department of Social Services beginning in fiscal year 1997–98, and based on the increase in fiscal year 1996–97 Aid to Families with Dependent Children child support collections above Aid to Families with Dependent Children child support collections in fiscal year 1995–96, a sum equal to 50 percent of the state's share of those increased collections. The sum shall be computed after payment of the incentive pursuant to increased collections. The sum shall be computed after payment of the incentive pursuant to Sections 15200.1 and 15200.2 has been taken out of the state share. The sum to be appropriated shall be computed in a similar manner annually thereafter.

(b) The sum appropriated pursuant to subdivision (a) shall be allocated by the department to each county which increased its collections and shall be based on each county's percentage of the total increased collections in those counties.

(c) This section shall become operative on July 1, 1998.

~~SEC. 35.~~

SEC. 39. Section 15200.8 of the Welfare and Institutions Code is amended to read:

15200.8. (a) The department shall establish a performance-based incentive system which will provide federal and state incentive funds to counties based on standards of performance in the child support program. The performance standards established shall determine

1 the incentive rates to be paid on any support collections
2 distributed on or after January 1, 1992.

3 (b) The performance-based incentive system shall
4 have two levels of incentives.

5 (1) The first level, hereafter referred to as "Tier I,"
6 shall provide counties with a base incentive rate
7 (referred to in this article as the base rate). Tier I also shall
8 provide an increased incentive rate (referred to in this
9 article as the compliance rate) to each county
10 determined by the department to be in compliance with
11 all federal and state child support enforcement program
12 requirements. The compliance incentive rate may also be
13 provided to each county that is in the process of
14 conversion to the Statewide Automated Child Support
15 System, as defined in subdivision (c) of Section 10815, if
16 the department determines that there is a reasonable
17 likelihood that the county would be in full compliance
18 with all federal and state child support enforcement
19 program requirements except for the fact that the county
20 has been required to divert resources to prepare for
21 conversion to the Statewide Automated Child Support
22 System and if the department further determines that the
23 county's efforts will bring the county into full compliance
24 with all federal and state child support enforcement
25 program requirements within a reasonable period of
26 time.

27 (2) In determining Tier I county compliance, the
28 department shall assess on at least an annual basis the
29 accuracy and effectiveness of case processing based on
30 the federal and state requirements in effect for the time
31 period being reviewed, using a statistically valid sample
32 of cases. The information for the assessment shall be based
33 on reviews conducted by either state or county staff, as
34 determined by the department.

35 (A) Counties determined not to be in compliance shall
36 be required to develop and submit a corrective action
37 plan to the department.

38 (B) Counties under a corrective action plan shall be
39 assessed on a quarterly basis until the department

1 determines that they are in compliance with federal and
2 state child support program requirements.

3 (3) In addition to determining Tier I compliance, the
4 department shall collect information regarding whether
5 cases on behalf of families receiving Aid to Families with
6 Dependent Children are disproportionately represented
7 in the portion of each county's case sample which is not
8 in compliance. In the event disproportionate
9 representation is found in a county's pool of
10 noncompliant cases, the department shall require
11 corrective action from that county. However, this
12 corrective action shall not affect the county's entitlement
13 to Tier I incentives.

14 (4) The second level (referred to in this article as Tier
15 II), shall provide an additional incentive rate (referred to
16 in this article as the performance rate), to counties that
17 meet the performance standard levels as established by
18 the department. No county shall qualify for payment of
19 Tier II incentives in any year, month, or quarter in which
20 it was not also eligible for the Tier I compliance rate.

21 (c) (1) The incentive rates shall be paid as a
22 percentage of total distributed collections.

23 (2) "Distributed collections" means collections used to
24 reduce or repay aid which is paid pursuant to this chapter;
25 collections paid to an aided family; collections paid to a
26 nonaided family regardless of the date of collection;
27 collections paid to other state child support agencies on
28 behalf of children residing in other states; and any other
29 payments collected which qualify for federal incentives.

30 (d) Effective January 1, 1992, incentive payments shall
31 be paid to the appropriate county jurisdiction as
32 determined by the department.

33 (e) Nothing in this section shall preclude the
34 department from adopting regulations pursuant to
35 Section 11479.5.

36 (f) This section shall become inoperative on June 30,
37 1998, and as of January 1, 1999, is repealed, unless a later
38 enacted statute, which becomes effective on or before
39 January 1, 1999, deletes or extends the dates on which it
40 becomes inoperative and is repealed.

~~SEC. 36.~~

SEC. 40. Section 15200.85 of the Welfare and Institutions Code is amended to read:

15200.85. (a) Effective January 1, 1992, there shall be appropriated from the State Treasury sufficient funds, including federal incentives, from which the department shall pay to each county a base rate of 10 percent on any support collections distributed, regardless of the date of collection. The base incentive rate shall decrease by 1 percent annually each July 1, until July 1, 1995, at which time it shall be 6 percent for that fiscal year and every fiscal year thereafter.

(b) Effective January 1, 1992, the department shall pay to each county that is determined by the department to meet all requirements of Tier I, as described in paragraph (1) of subdivision (b) of Section 15200.8, a compliance incentive rate of 1 percent on any support collections distributed. This compliance rate shall increase by 1 percent annually each July 1, until July 1, 1995, at which time it shall be 5 percent for that fiscal year and every fiscal year thereafter.

(c) Counties which complete their corrective action plans pursuant to subparagraph (B) of paragraph (1) of subdivision (b) of Section 15200.8, shall qualify for the compliance rate incentive at the start of the quarter following completion.

(d) This section shall become inoperative on June 30, 1998, and as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 37.~~

SEC. 41. Section 15200.9 of the Welfare and Institutions Code is amended to read:

15200.9. (a) Effective July 1, 1993, there shall be appropriated from the State Treasury sufficient funds, including federal incentives, from which the department shall pay a performance rate to those counties which meet Tier II performance standards, pursuant to paragraph (2) of subdivision (b) of Section 15200.8. The

1 performance rate shall be paid in addition to that
2 provided for under Section 15200.85 and shall be paid on
3 distributed collections, regardless of the date of
4 collection.

5 (b) The performance rate shall be a graduated scale
6 up to a maximum rate of 1 percent. The maximum
7 performance rate shall increase by 1 percent annually
8 until July 1, 1995, at which time it shall be 3 percent for
9 that fiscal year and every fiscal year thereafter.

10 (c) This section shall become inoperative on June 30,
11 1998, and as of January 1, 1999, is repealed, unless a later
12 enacted statute, which becomes effective on or before
13 January 1, 1999, deletes or extends the dates on which it
14 becomes inoperative and is repealed.

15 ~~SEC. 38.~~

16 *SEC. 42. Section 15200.91 is added to the Welfare and*
17 *Institutions Code, to read:*

18 *15200.91. The Legislative Analyst's office shall*
19 *conduct a study of the effectiveness, efficiency, and*
20 *integrity of the child support performance review and*
21 *corrective action processes described in Sections 15200.8*
22 *to 15200.9, inclusive, the department's regulations, and*
23 *the operation of these processes at the state and county*
24 *level and shall report its findings and recommendations*
25 *for improvement, as appropriate, to the Legislature by*
26 *March 1, 1997. The study shall be designed by the*
27 *Legislative Analyst's office in consultation with the*
28 *department, the State Library Research Bureau, a child*
29 *support advocate group, and the California Family*
30 *Support Council.*

31 *SEC. 43. Section 15200.95 of the Welfare and*
32 *Institutions Code, as amended by Section 10 of Chapter*
33 *481 of the Statutes of 1995, is amended to read:*

34 *15200.95. (a) Each county shall be responsible for its*
35 *nonfederal share of administrative expenditures for*
36 *administering the child support program.*

37 *(b) Notwithstanding subdivision (a), effective July 1,*
38 *1991, to June 30, 1992, inclusive, counties shall pay the*
39 *nonfederal share of the administrative costs of*
40 *conducting the reviews required under Section 15200.8*

1 from the savings counties will obtain as a result of the
2 reduction in the maximum aid payments specified in
3 Section 11450. Effective July 1, 1992, to June 30, 1993,
4 inclusive, the state shall pay the nonfederal share of
5 administrative costs of conducting the reviews required
6 under Section 15200.8. Funding for county costs after
7 June 30, 1993, shall be subject to the availability of funds
8 in the annual Budget Act.

9 (c) In the event that the federal government does not
10 provide the funding for federal financial participation in
11 administrative costs of the child support program at the
12 scheduled rates of 66 percent for regular federal financial
13 participation and 90 percent for enhanced federal
14 financial participation, the department shall increase the
15 Tier I base incentive rate authorized under Section
16 15200.85 to supplant the dollar reduction to federal
17 financial participation.

18 (1) This increase shall be based on the difference
19 between the estimated dollar reimbursement resulting
20 from the scheduled federal financial participation and
21 the estimated dollar reimbursement resulting from the
22 reduced federal financial participation rates. This
23 increase to the base incentive rate, when applied to
24 estimated total collections for the state fiscal year, shall
25 approximately equal the federal reduction.

26 (2) This increase shall be determined annually, and
27 shall apply to total distributed collections as defined in
28 subdivision (c) of Section 15200.8.

29 (3) In no event shall the increased incentive rate
30 exceed 4 percent in any fiscal year.

31 (4) This increase to the base incentive rate shall apply
32 to the period of time in which the federal financial
33 participation rate in administrative expenditures is
34 reduced.

35 (d) This section shall become inoperative on June 30,
36 1998, and as of January 1, 1999, is repealed, unless a later
37 enacted statute, which becomes effective on or before
38 January 1, 1999, deletes or extends the dates on which it
39 becomes inoperative and is repealed.

40 ~~SEC. 39.~~

1 *SEC. 44.* Section 15200.95 of the Welfare and
2 Institutions Code, as added by Section 11 of Chapter 481
3 of the Statutes of 1995, is amended to read:

4 15200.95. (a) Each county shall be responsible for its
5 nonfederal share of administrative expenditures for
6 administering the child support program.

7 (b) In the event that the federal government does not
8 provide the funding for federal financial participation in
9 scheduled rates of 66 percent for regular federal financial
10 participation and 90 percent for enhanced federal
11 financial participation, the department shall increase the
12 incentive rates authorized under Sections 15200.1,
13 15200.2, and 15200.3 to supplant the dollar reduction to
14 federal financial participation.

15 (1) This increase shall be based on the difference
16 between the estimated dollar reimbursement resulting
17 from the scheduled federal financial participation and
18 the estimated dollar reimbursement resulting from the
19 reduced federal financial participation rates. This
20 increase to the base incentive rate, when applied to
21 estimated total collections for the state fiscal year, shall
22 approximately equal the federal reduction.

23 (2) This increase shall be determined annually, and
24 shall apply to total distributed collections as defined in
25 Section 15200.1.

26 (3) In no event shall this increase to the incentive rate
27 exceed 4 percent in any fiscal year.

28 (4) This increase to the incentive rate shall apply to
29 the period of time in which the federal financial
30 participation rate in administrative expenditures is
31 reduced.

32 (c) This section shall become operative on July 1, 1998.

33 ~~SEC. 40.~~

34 *SEC. 45.* No reimbursement is required by this act
35 pursuant to Section 6 of Article XIII B of the California
36 Constitution for certain costs that may be incurred by a
37 local agency or school district because in that regard this
38 act creates a new crime or infraction, eliminates a crime
39 or infraction, or changes the penalty for a crime or
40 infraction, within the meaning of Section 17556 of the

1 Government Code, or changes the definition of a crime
2 within the meaning of Section 6 of Article XIII B of the
3 California Constitution.

4 However, notwithstanding Section 17610 of the
5 Government Code, if the Commission on State Mandates
6 determines that this act contains other costs mandated by
7 the state, reimbursement to local agencies and school
8 districts for those costs shall be made pursuant to Part 7
9 (commencing with Section 17500) of Division 4 of Title
10 2 of the Government Code. If the statewide cost of the
11 claim for reimbursement does not exceed one million
12 dollars (\$1,000,000), reimbursement shall be made from
13 the State Mandates Claims Fund.

14 Notwithstanding Section 17580 of the Government
15 Code, unless otherwise specified, the provisions of this act
16 shall become operative on the same date that the act
17 takes effect pursuant to the California Constitution.

